



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.NO.14208 OF 2021

AND

W.M.P.NO.15090 OF 2021

S.Selvakumar

.. Petitioner

Versus

1. The Union of India,
Represented by its Secretary to the Government,
Department of Home Affairs,
New Delhi.
 2. The Director General,
CISF Head Quarters,
No.13, CGO Complex,
Lodhi Road, New Delhi 110 003.
 3. The Inspector General,
CISF South West Head Quarters Airport Sector-II
CISF Unit ASG KIAL Bengaluru
Village & Post: Devanahalli
District: North Bengaluru, State: Karnataka - 560 300.
 4. The Deputy Inspector General/Airport Sector,
CISF Head Quarters South Zone,
'D' Block First Floor, Rajaji Bhawan,
Besant Nagar, Chennai, Tamil Nadu - 600 090.
 5. The Commandant,
CISF Unit ASG RGIA Hyderabad,
Mamidipally Road, Shamshabadi,
District: Hyderabad State: Andhra Pradesh - 501 218
- .. Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the 3rd respondent dated 09.04.2020 in his order No.V-11014/APS-II/L&R/Rev-(06/20)/SK/2020-2325 dated 09.04.2020, confirming the



order of the 4th respondent dated 05.12.2019 in his appellate order No.V-15019/L&R/APSZ/Disc/Appeal-08/SKS/2019- 6129 dated 05.12.2019 confirming the order passed by the 5th respondent dated 06.09.2019 in his final order No.V-15014/CISF/RGIA/ASG (V)/L&R/DE-36/2019-8146 dated 06.09.2019 to quash the same and to direct the respondents to pay all monetary benefits and seniority to the petitioner.

For Petitioner : Mr.K.Sivakumar

For Respondents : Ms.P.J.Anitha
Central Government Standing Counsel

O R D E R

This writ petition is filed to issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 3rd respondent dated 09.04.2020 in his order No.V-11014/APS-II/L&R/Rev-(06/20)/SK/2020-2325 dated 09.04.2020, confirming the order of the 4th respondent dated 05.12.2019 in his appellate order No.V-15019/L&R/APSZ/Disc/Appeal-08/SKS/2019-6129 dated 05.12.2019 confirming the order passed by the 5th respondent dated 06.09.2019 in his final order No.V-15014/CISF/RGIA/ASG (V)/L&R/DE-36/2019-8146 dated 06.09.2019 to quash the same and to direct the respondents to pay all monetary benefits and seniority to the petitioner.

2.The petitioner joined as Constable General Duty in the Central Industrial Security Force, Chennai at Tamil Nadu on 28.04.2003. After serving in various places up to 2019, the petitioner was serving in the CISF Unit ASG Visakhapatnam Airport. The petitioner was issued with Charge Memo on 01.03.2019. The charge against the petitioner is that he was on 'A' shift duty from 06.00 am to 01.00 pm at Cargo Air Side duty post along with another constable. The petitioner was an enrolled member of the Force of CISF Unit ASG Visakhapatnam and he was issued with an AK-47 rifle and 90 rounds of ammunition for performing duty. During a surprise checking carried out by the Assistant Commandant CISF Unit ASG Vizag, the petitioner was found sleeping while sitting on the chair with arms & ammunitions and at that time Air side shutter gate was open. Hence, a charge memo was issued, alleging mainly dereliction of duty. The 5th respondent, after considering the charges and materials produced, imposed a punishment of reduction of pay by one stage from Rs.36,400 to Rs.35,300/- for a period of one year with immediate effect. As against the order of the 5th respondent dated 06.09.2019, the petitioner preferred an appeal before the 4th respondent. The 4th respondent by an order dated 05.12.2019 dismissed the appeal confirming the order of punishment passed by the 5th respondent. Thereafter, the petitioner filed a



revision before the 3rd respondent. The 3rd respondent also dismissed the revision petition filed by the petitioner. Challenging the order of the official respondents, the above writ petition is filed.

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3. The learned counsel for the petitioner submitted that the respondents have not considered the explanation offered by the petitioner to the charges. It is further submitted that the punishment imposed on the petitioner is disproportionate to the charges against the petitioner.

4. The learned counsel for the official respondents submitted that the charges against the petitioner are proved and that the only plea of the appellant in defence was sudden illness which is not acceptable. The petitioner has admitted the charges in his own explanation. It is admitted that the petitioner was on shift duty from 06.00 am to 01.00 pm at Cargo Air Side duty post along with another constable. It is also admitted that the petitioner was issued with an AK-47 rifle and 90 rounds of ammunition for performing duty effectively. It is also admitted that during the surprise checking carried out by an officer in the rank of Assistant Commandant, it is found that the petitioner was sleeping while sitting on the chair with arms & ammunitions. It is further stated while petitioner was sleeping, air side shutter gate was opened. In the said circumstances, the 5th respondent, after considering the explanation offered by the petitioner and the other materials, found the petitioner guilty of the specific charges.

5. It is to be noted that the explanation offered by the petitioner in this case can never be accepted having regard to the duties and responsibilities of the petitioner while on duty. The 5th respondent found that the petitioner was sleeping on the chair with arms & ammunitions. The explanation was that he was not sleeping but was not conscious due to his illness. The explanation is not believable and the petitioner had no valid explanation worthy of mitigating the misconduct. The charge was regarding dereliction of duty and it is amply proved by his explanation itself. The punishment imposed in this case is very minimal. It is to be noted that the prosecution witnesses, also spoke about the way in which the petitioner was sleeping with closed eyes. It is stated by the witnesses that they tried to wake the petitioner up by way of making noise, lifting chair etc. But the petitioner woke up sometime after his weapon was taken from his arms. Immediately after waking up, the petitioner found himself caught red handed and reacted by saying "sorry sir, I slept". So the spontaneous admission of the petitioner himself was taken as one of the reasons for finding him guilty of the charges. Other attempt of the petitioner to convince the respondent was by producing the medical certificates and



documents relating to his health issues. The petitioner stated that he was found sleeping only because he could not be normal due to sudden giddiness. The only excuse for the serious allegations of dereliction of duty (misconduct) is that due to medical condition, the petitioner was unable to perform his duty. The petitioner, with an AK-47 rifle and 90 rounds of ammunition, is expected to be vigilant and he cannot afford such explanation as given in this case. The punishment imposed is only reduction of pay by one stage for a period of one year. This Court is unable to imagine a lesser punishment than the one awarded in the present case having regard to the seriousness of the charge.

6. This Court find no merits in the grounds raised in the Writ Petition. This Writ Petition is devoid of merits and dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Secretary to the Government,
Union of India,
Department of Home Affairs,
New Delhi.
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5. The Commandant,
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Mamidipally Road, Shamshabadi,
District: Hyderabad State: Andhra Pradesh - 501 218.

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+1cc to Mr.K.Sivakumar, Advocate, S.R.No.33059

+1cc to Ms.P.J.Anitha, Advocate, S.R.No.32542

W.P.No.14208 of 2021
and W.M.P.No.15090 of 2021

PCH (CO)
CS/19/08/2021