



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.12096 OF 2012

Mohamed Naimuddin

... Petitioner

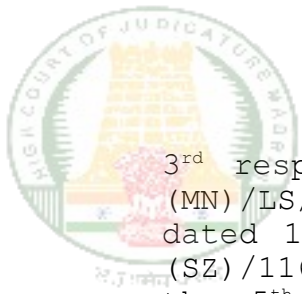
-Vs-

1. The Union of India,
Rep. by its Secretary to the Government,
Department of Home Affairs,
New Delhi.
2. The Special Director General/APS,
CISF Head Quarters,
No.13, C.G.O. Complex,
Lodhi Road,
New Delhi - 110 003.
3. The Inspector General/APS,
CISF Head Quarters,
No.13, C.G.O. Complex,
Lodhi Road,
New Delhi - 110 003.
4. The Deputy Inspector General/APS,
CISF Head Quarters South Zone,
'D' Block, First Floor,
Rajaji Bhavan, Besant Nagar,
Chennai - 600 090.
5. The Senior Commandant,
CISF Unit RGIAL Shamshabad
District: Ranga Reddy,
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, to call for the record relating to the order passed by the



3rd respondent dated 30.06.2011 in his order No.V-11014/APS/51 (MN)/LS/2010-7342 confirming the order of the 4th respondent dated 12.05.2009 in his appellate order No.V-11014/02/2009/L&R/(SZ)/1161 dated 12.05.2009 and confirming the order passed by the 5th respondent dated 26.12.2008 in his final order No.V-15014/CISF/RGIAL/(MN)/L&R/08-5998 and to quash the same and to direct the respondents to release the increments reduced by the final order of the disciplinary authority.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.T.L.Thirumalaisamy
Central Government
Standing Counsel

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. The charge against the petitioner is in the nature of unauthorized absence for a period of 50 days commencing from 21.04.2008. After enquiry, the Disciplinary Authority, through his order dated 26.12.2008, had imposed the punishment of reduction of pay by one stage for a period of two years with effect from 01.01.2009, which will have the effect of postponing the future increments of pay. The appeal and revision against this punishment before the Appellate Authority and the Revisional Authority were rejected on 12.05.2009 and 30.06.2011 respectively. Challenging these orders, the present writ petition has been filed.

3. The only ground on which the learned counsel for the petitioner places his argument is that, he had given a leave to the fifth respondent and since he had not passed orders on the application, the petitioner had gone on leave.

4. This submission is opposed by the learned Central Government Standing Counsel appearing for the respondents, stating that a mere submission of the leave application does not entitle to desert the unit lines without permission and unless and until the leave sanction order is passed, the petitioner is required to present himself for the evening roll calls, which he has failed.

5. The scope of interference to a punishment imposed pursuant to a departmental enquiry, under Article 226 of the Constitution of India, is very limited, barring a few



exceptions. One among such exception is re-appreciation of the evidences.

6. Insofar as the ground raised by the petitioner that he had made a leave application is concerned, the Disciplinary Authority, in his order, had dealt with this ground stating that PW-2, during his statement given in the enquiry, had deposed that the petitioner was informed by him about the non-sanctioning of leave with a direction that he may meet the higher authority in this regard. However, instead of meeting the higher authority, he had absented himself from the unit line on 21.04.2008, which is a gross misconduct.

7. Since this factual ground raised by the petitioner was already dealt with by the Enquiry Officer, which is reflected in the order of punishment, which is on the basis of the oral evidences adduced by DW-2, re-appreciating the same factual evidence is not permissible. Even otherwise, there seems to be some explanation for the letter given by the petitioner seeking for leave and therefore, the ground raised by the petitioner is rejected.

8. Since the CISF is a disciplined armed force, the unauthorized absence is regarded to be a gross misconduct and the present punishment of reduction of pay by one stage for a period of two years with effect from 01.01.2009, which will have the effect of postponing the future increments of pay, does not seem to be disproportionate to the levelled charges. As such, I do not find any merits in the present writ petition.

9. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Secretary to the Government,
The Union of India,
Department of Home Affairs,
New Delhi.



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2. The Special Director General/APS,
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District: Ranga Reddy,
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Andhra Pradesh - 501 218.

+1cc to Mr.T.L.Thirumalaisamy, Advocate, S.R.No.18385

W.P.NO.12096 OF 2012

PMK(CO)
PBS/01/04/2022