



W.P.No.26273

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.09.2022

DELIVERED ON : 31.10.2022

THE HON'BLE MR. JUSTICE K.KUMARESH BABU

W.P.No.26273 of 2008

S.Justus

...Petitioner

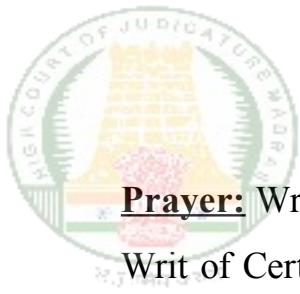
Vs.

- 1.Union of India,
Represented by its Secretary to the Government,
Department of Home Affairs,
New Delhi.
- 2.The Director General of Police,
Central Reserve Police Force,
No.13, C.G.O. Complex,
Lodhi Road, New Delhi – 110 003.
- 3.The Inspector of General of Police,
RAF/Central Reserve Police Force,
R.K.Puram, New Delhi.
- 4.The Deputy Inspector General of Police,
CRPF, Northern Sector,
Mumbai.
- 5.The Commandant,
99 Bn, RAF/Central Reserve Police Force,
Hakimpet, Secandrabad – 78,
Andhra Pradesh.
- 6.The Additional Deputy Inspector General of Police,
Group Centre,
Avadi, Chennai – 600 065.

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Respondents

<https://www.mhc.tn.gov.in/judis>



Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 2nd respondent in his order No.R.13-10/08-Karmik-3 (Legal) dated 12.06.2008 and communicated by the 6th respondent in his communication No.J-II-41/2008-Pairvi Cell dated 16.10.2008 confirming the order of the 3rd respondent in his order No.R.13.2/2007-T.O.F.P.2 (S.J) dated 04.12.2007 and modifying the order of the 4th respondent in his Order No.R.XIII.1/2006-EC.III (99) dated 07.11.2006 and confirming the order of the 5th respondent dated 28.06.2006 in his order No.P.VIII-2/2006-99.EC-II and quash the same and to direct the respondents to take the petitioner into the strength of Central Reserve Police Force as Constable GD with all monitory benefits.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.T.L.Thirumalaisamy for R1 to R6

ORDER

Heard Mr.A.S.Mujibur Rahman, learned counsel for the petitioner and Mr.T.L.Thirumalaisamy, learned counsel appearing for the respondents 1 to 6.

2.Mr.A.S.Mujibur Rahman, learned counsel for the petitioner would submit that the petitioner joined the Central Reserve Police Force as a Constable on 10.05.1988 and has been working at various places and has an unblemished record during his entire period of service. While that being so, a memorandum of charges were issued to him on 25.07.2005 with imputation of charges that he had assaulted a Senior and caused injuries to him and that he had left the camp without permission



from the Competent Authority and was unauthorizedly absent for 23 days and that he had skipped the level in making a complaint without proper permission. He would submit that the enquiry was conducted without proper notice and therefore, he had not participated in the enquiry and an enquiry report has been submitted by the Enquiry Officer on 23.03.2006 holding that all the charges against the petitioner was proved.

3.He further contended that since the documents requested by him were not served upon him, he was not able to participate in the enquiry which was no fault of his. However, the fifth respondent herein passed an order of withholding the increment for a period of two years with cumulative effect and the period of absence of 23 days will be regularized with no leave salary.

4.Being aggrieved against the same, the petitioner had preferred an appeal to the fourth respondent herein had rejected the appeal filed by the petitioner. Against the same, the petitioner had preferred a further appeal to the third respondent and who had issued a show-cause notice as to why the punishment granted to him should not be enhanced and on receipt of the reply, the petitioner had submitted his explanation. But, however, without considering the same, the third respondent had passed an order of compulsory retiring the petitioner with effect from 17.12.2007.

5. According to the learned counsel for the petitioner, the enquiry report holding



that the charges have been proved is an exparte enquiry as the petitioner did not participate due to non-furnishing of documents to substantiate his case. Based on such an exparte enquiry, the Original Authority viz., the fifth respondent had passed an order imposing penalty of stoppage of increment with cumulative effect for a period of two years and had regularized the services without leave salary. But, the third respondent on the same exparte enquiry called upon the petitioner as to why the punishment should not be enhanced for which the petitioner had also submitted his explanation.

6.A reading of the order according to him, the third respondent without considering such explanation and without giving any finding as to how the enquiry report was valid had imposed a punishment of compulsory retirement is wholly arbitrary and therefore, he prayed that the order of imposing punishment on an exparte enquiry should be set aside.

7.Countering his arguments, Mr.T.L.Thirumalaisamy, learned counsel appearing for the respondents 1 to 6 would submit that the petitioner had indulged himself in a grave delinquency of hurting a Senior cadre person and have also left the camp after the said incident without intimating his absence. He had also skipped the level raising a complaint. But, however, considering his delinquency, the Original Authority had only imposed a punishment of withholding increment for a period of



two years and denied the leave salary for 23 days. While imposing such punishment, the Original Authority had given a clear reasons that it has taken a lenient view in imposing the said punishment. Even the Appellate Authority has held that the Original Authority considering the grave nature of offence had taken a lenient view. However, the Revisional Authority on consideration of the various facts has issued a show-cause notice as to why the punishment should not be enhanced for which the petitioner had also submitted his reply and thereafter only the order of compulsory retirement has been passed.

8.He pleaded that in the light of the aforesaid facts, there has been no violation of principles of natural justice. The petitioner had wantonly to scuttle the enquiry has absented himself during the enquiry. However, he had submitted his explanation and he had not specifically denied his grave misconduct of assaulting another person who was a Senior in his cadre. He also contended that the arguments made by the petitioner that there was no unauthorized absentism in view of the warrant of travel issued to him is not correct, as a warrant of travel would be issued for a person intending to travel. But he can travel only when his leave is approved and grant of warrant of travel would not amount to approving his leave.

9.In view of the said facts, he contended that there was no infirmity, irregularity or perversity in the orders passed by the respondents 3 to 5 and further contended that there is no reason to interfere with the orders made in the Writ



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10.I have considered the rival submissions made by the learned counsel appearing on either side and has perused the materials available on record.

11.As seen from the enquiry report, the petitioner had been given ample opportunities to defend his case. The Enquiry Officer had also given a cogent reasoning as to why he has come to the conclusion that the charges have been proved. The petitioner was not able to demonstrate why such reasonings as arrived by the Enquiry Officer is perverse.

12.I have perused the impugned orders passed by the fifth respondent/the Original Authority, the fourth respondent/the Appellate Authority and the third respondent/the Revisional Authority. I am also of the view that as rightly pointed out by the learned counsel for the respondents issuing a warrant of travel would not amount to a grant of leave and the petitioner who had served for more than 19 years of service cannot make such a bald claim.

13.In view of the aforesaid findings, I find no infirmity, irregularity or perversity in the orders passed by them.

14 The petitioner being a member of the Central Reserve Police Force is bound



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to act in a disciplined manner and any indiscipline cannot be tolerated. Even the Revisional Authority who had imposed the order of compulsory retirement had taken a lenient view taking into consideration his length of service and his family circumstances or otherwise, the petitioner would have been imposed with a higher punishment dis-entitling him to terminal benefits.

15.In view of the above, I find no reasons to interfere with the orders impugned in the Writ Petition and consequently, the Writ Petition is dismissed. However, there shall be no order as to costs.

31.10.2022

Index: Yes/No
Speaking Order/Non-Speaking Order
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To

WEB

1. The Secretary to the Government,
Union of India,
Department of Home Affairs,
New Delhi.
2. The Director General of Police,
Central Reserve Police Force,
No.13, C.G.O. Complex,
Lodhi Road, New Delhi – 110 003.
3. The Inspector of General of Police,
RAF/Central Reserve Police Force,
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K.KUMARESH BABU, J.

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A pre-delivery order in
W.P.No.26273 of 2008

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