



WEB COPY



W.P.No.35807 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.35807 of 2016

Ramswaroop Kajala

.. Petitioner

Vs.

- 1.The Union of India,
Represented by its Secretary to Government,
Ministry of Home Affairs, New Delhi.
- 2.The Director General,
Central Industrial Security Force,
Head Quarters, Block No.13, CGO Complex,
Lodhi Road, New Delhi – 110 003.
- 3.The Inspector General,
Central Industrial Security Force,
South Sector, Head Quarters,
Near War Memorial, Chennai – 600 009.
- 4.The Deputy Inspector General,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation,
Neyveli-Cuddalore-District.
- 5.The Commandant,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation,
Neyveli-Cuddalore-District.

... Respondents



W.P.No.35807 of 2016

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 3rd respondent in his Order No.V-V-15014/L&R/SS/Rev/RK/2013-468, dated 13.01.2014, confirming the order of the 4th respondent in his Appellate Order No.V-15014/CISF/NLC/Disc/Appeal-36/RSK/2013/5390, dated 29.05.2013, confirming the order of the 5th respondent in his Final Order No.V-15014/CISF/NLC/Disc/Maj/RSK/2013/3054, dated 20.03.2013 and quash the same and direct the respondents to pay all monetary benefits.

For Petitioner : M.A.S.Mujibur Rahman

For Respondents : Mr.N.Ramesh
Central Government Standing
Counsel

ORDER

The punishment of reduction of pay to the minimum stage from Rs.6720/- + Rs.2000/- GP to Rs.6460/- + Rs.2000/- GP in the Pay Band of Rs.5200-20200 (+) Rs.2000/- GP for a period of two years with cumulative effect imposed on the writ petitioner is under challenge in the present writ petition.



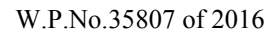
2. The petitioner joined in the Central Industrial Security Force (CISF) on 23.03.2011. A charge memo dated 10.01.2013 under Rule-36 of the Central Industrial Security Force Rules, 2001 was issued with the following Article of Charges:

“On 27.12.2012 No.114480088 Const/Driver Ramaswaroop Kajala (U/s) of HQ Coy was detailed for 'A' shift duty from 0500 Hrs to 1300 Hrs on 27.12.2012 along with Bus bearing No.TN-31, CZ 0407 for mounting of 'A' Shift duty personnel of Mine 1A (L) Sector CISF Unit NLC Neyveli. Accordingly, the Bus driven by Const/Driver Ramswaroop Kajala carrying the 'A' shift duty personnel of “l” Sector reached at Mine-1A Main Gate at about 0510 Hrs. After reaching at Mine-I A Main Gate, Const/Driver Ramswaroop Kajala parked the above Bus inside the Mine-I A Main gate and get down from the vehicle by leaving the above Bus unattended in starting condition. In the mean time, the Bus started moving down towards Mine-I A Main Gate and strike the stopper wall and in gate barrier resulting in damage of NLC Management property worth of Rs.1151.46/- approximately. The above lapse on the part of Const/Driver



Ramswaroop Kajala (U/s) tantamount to indiscipline, dereliction towards bonafide official duty and highly unbecoming of a disciplined member of the Armed Force of the Union i.e. CISF. Hence the charge.”

3. The petitioner submitted his written statement of defence, denying the Articles of Charges and not satisfied with the explanations dated 18.01.2013, the Disciplinary Authority appointed an Enquiry Officer, who in turn, conducted a departmental enquiry. The Enquiry Officer conducted the enquiry by affording opportunity to the writ petitioner and submitted his report on 14.03.2013, holding that the charges against the writ petitioner were held proved. Thereafter, the petitioner was provided with an opportunity to submit his further objections and the Disciplinary Authority passed final orders, imposing penalty of reduction of pay to the minimum stage for a period of two years with immediate effect. The reduction will have the effect of postponing his future increments of pay. The petitioner preferred an appeal and thereafter, Revision and both are rejected. Thus, the petitioner is constrained to move the present writ petition.



5. The learned counsel for the petitioner reiterated that the incident happened on account of the fact that the petitioner heard a sound and immediately he got down from the Bus and has seen the surroundings, by that time, the Bus hit with the gate and it was a minor damage and even as per the respondents the expenditure involved was about a sum of Rs.1151.46/- and thereafter, the major penalty imposed on the writ petitioner is highly excessive.

Page 5 of 12



Sabu Thomas (PW-1), the shift in-charge of 'A' shift on 27.12.2012, deposed in his statement that Bus bearing No.TN 31 CZ 0407 driven by the petitioner reached at Mine-IA Main Gate. The petitioner parked the vehicle inside the Mine-IA Main Gate 10 meters away from the stopper wall. The petitioner was in the Driver seat but after some time, the petitioner had left the Bus with starting condition and moved towards Mine-IA out gate. When the petitioner left the Bus, the Bus suddenly moved in reverse direction towards Mine-IA in the gate and damaged NLC Management Property worth of Rs.1151.46 approximately.

7. The learned Central Government Standing Counsel appearing on behalf of the respondents reiterated that the procedures as contemplated under the Rules were followed scrupulously by the authorities competent and for the proved charges, the punishment of reduction of pay was imposed. Thus, there is no infirmity and the writ petition is to be rejected.

8. Considering the facts and circumstances, the procedures followed by the competent Disciplinary Authority is in consonance with the Rules in force and there is no infirmity. The Rules of natural justice had been



complied with in the present case and the petitioner availed the opportunities provided by the Disciplinary Authority. The findings of misconduct is also based on some evidences and the petitioner could not able to establish his innocence or otherwise. Thus, this Court do not find any infirmity, in respect of the findings of the Enquiry Officer, holding that the charges against the writ petitioner are held proved. The Statutory Rules governing the conduct of the departmental enquiry had been observed. Thus, the findings of the Disciplinary Authority in the impugned order did not suffer from any perversity.

9. At the outset, the departmental disciplinary proceedings were conducted in accordance with the rules in force and by affording opportunity to the charged official and thus, there was no infirmity in respect of the procedures followed and the findings of the Enquiry Officer, holding that the charges are proved against the writ petitioner.

10. The only consideration in the case on hand is that, whether the punishment of reduction of pay to the minimum stage for a period of two years, which would effect the future increment of pay is in proportionate



with the gravity of the proved charges. The penalty of reduction of pay to the minimum stage with cumulative effect is a major penalty. The charge proved against the writ petitioner was that he suddenly got down from the Bus, which continued to be in started condition and the Bus came to reverse and hit the gate, which caused damage on the gate of Neyveli Lignite Corporation, resulting in loss of a sum of Rs.1151.46/-.

11. No doubt, the charge that the petitioner got down from the Bus unattended in a starting condition was established. But the damage caused is meagre and the petitioner did not committed the said misconduct intentionally. On account of some sudden reason, he got down from the Bus, which led to an accident and thus, there was no intention on the part of the petitioner for committing such a misconduct and moreover, the damage caused to the Neyveli Lignite Corporation property is for a sum of Rs.1151.46/- and for this minor accident, the major penalty imposed on the petitioner is certainly excessive and disproportionate with the gravity of the charges proved against the writ petitioner.



12. As far as the present case is concerned, the competent authorities ought to have considered for imposing minor penalty instead of major penalty. The punishment of reduction of pay to the minimum stage for two years, which would effect the postponing his increment of pay is certainly a major penalty, which is unwarranted. Thus, the major penalty imposed on the petitioner is disproportionate and excessive with reference to the proved charges and accordingly, this Court is of an opinion that the authorities are to be given liberty to impose any one of the minor penalty under the Central Industrial Security Force Rules.

13. In view of the discussions made in the aforementioned paragraphs, the impugned orders passed by the 3rd respondent in his Order No.V-V-15014/L&R/SS/Rev/RK/2013-468, dated 13.01.2014 and 4th respondent in his Order No.V-15014 /CISF /NLC /Disc /Appeal-36/RSK/2013/5390, dated 29.05.2013 and the 5th respondent in his Order No.V-15014/CISF /NLC/Disc /Maj/RSK /2013/3054, dated 20.03.2013 are quashed.



W.P.No.35807 of 2016

14. The 5th respondent / Disciplinary Authority is directed to impose any one of the minor penalty, under the Rules concerned within a period of eight (8) weeks from the date of receipt of a copy of this order.

15. With the above directions, the Writ Petition stands allowed-in-part. No costs.

04.11.2022

Jeni/Kak
Index : Yes
Speaking order

To

- 1.The Secretary to Government,
Union of India,
Ministry of Home Affairs, New Delhi.
- 2.The Director General,
Central Industrial Security Force,
Head Quarters, Block No.13, CGO Complex,
Lodhi Road, New Delhi – 110 003.
- 3.The Inspector General,
Central Industrial Security Force,
South Sector, Head Quarters,
Near War Memorial, Chennai – 600 009.



W.P.No.35807 of 2016

4.The Deputy Inspector General,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation,
Neyveli-Cuddalore-District.

5.The Commandant,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation,
Neyveli-Cuddalore-District.



WEB COPY



W.P.No.35807 of 2016

S.M.SUBRAMANIAM, J.

Jeni/kak

W.P.No.35807 of 2016

04.11.2022