



W.P.No.12201 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

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R.Narayanasamy

...Petitioner

..Vs..

1.The Union of India,
Rep. by its Secretary to Government,
Ministry of Home Affairs,
North Block, New Delhi.

2.The Director General,
Central Industrial Security Force,
CGO Complex,
Lodhi Road,
New Delhi-110003.

3.The Inspector General,
South Sector,
Central Industrial Security Force,
Chennai-600 009.

4.The Deputy Inspector General,
South Zone Head Quarters,
Central Industrial Security Force,
Rajaji Bhavan, Besant Nagar,
Chennai-600 090.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus, to call for the
records relating to the order passed by the 3rd respondent dated



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27.01.2014 in his order No.V-15014/L&R/SS/Rev/RNS/2013-941 confirming the order of the 4th respondent dated 23.08.2013 in his order No.V-11014/29/Disc/Sz/2013/6230 confirming the order of the 5th respondent dated 22.03.2013 in his final order No.V-15014/CISF/Disc/Major-10/RNS/12.13/12892 and quash the same and to direct the respondents to pay all benefits.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.G.Baskaran
Central Government Standing Counsel

ORDER

The order of punishment of rejection of pay by two stages from Rs.15,530/- to Rs.14,710/- in the pay band - 2 of Rs.9,300/- to 34,800/- with grade pay of Rs.4,200/- for a period of one year with cumulative effect imposing on the writ petitioner is under challenge in the present writ petition.

2. It is further ordered by the Disciplinary Authority that the petitioner cannot earn increment of pay during the period of reduction and on expiry, reduction will have effect of postponing his future increments of pay. The said major penalty imposed by the Disciplinary Authority was confirmed by the Appellate Authority and the Revisional Authority. Thus, the petitioner is constrained to move the present Writ



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petition.

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3. The petitioner was deployed in Patrolling duty from 05.00 hours to 17.00 hours at broken wall No.51 and while coming to duty spot at 05.20 hours the reliever of the petitioner CT/GD Mahandhappa has said that the village people were giving complaints and warning stating that a cow died inside wall No.65. The said died cow was removed subsequently and petitioner stated that he was performing his duty diligently. However, a charge memo was issued against the writ petitioner stating that he had committed an act of negligence and dereliction of duty. While he was on 'Day' shift duty from 0500 hrs to 1700 hrs at broken wall No.51 to 72 patrolling, at about 1430 hours, two thieves climbed on the boundary wall which is adjacent and clearly visible to his duty post and having seen CIW Personnel, the thieves ran away later on. On searching inside the broken wall, scrap iron materials approximately 50-60 kgs were recovered. The area of crime was adjacent and clearly visible to HC/GD R Narayana Samy, but he remained unaware about the situation and remained totally inactive.



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4. The writ petitioner submitted his explanation denying the charges. The Enquiry Officer was appointed, who inturn conducted an enquiry and petitioner participated in the process of enquiry and defended his case based on the deposition of witnesses and the materials available on record. The Enquiry Officer submitted his report holding that the charges against writ petitioner are held proved. The report of the Enquiry Officer was accepted by the Disciplinary Authority and a show cause notice was issued and after receiving objections on the enquiry report from the writ petitioner, the punishment of reduction of pay by two stages for a period of one year with cumulative effect was imposed on the writ petitioner. The writ petitioner preferred an appeal and thereafter revision, both the appeal and the revision was rejected by the competent authority.

5. The learned counsel mainly contended that the major penalty imposed on the petitioner is not in proportionate to the gravity of the charges proved against him before the Enquiry Officer. The charges proved before the Enquiry Officer was dereliction of duty and therefore the authorities competent are not empowered to impose major penalty under the Central Industrial Security Force Rules, 2001.



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6. The learned Standing counsel appearing on behalf of the respondent objected the said contention by stating that the Authorities have imposed the punishment of reduction of pay at two stages which is permissible in respect of such grave offence. The charges are serious in nature and the petitioner failed in his duty and allowed the thieves to commit a crime, while he was on duty and therefore the punishment imposed is in commensuration with the allegation established against the writ petitioner and thus writ petition is to be rejected.

7. Let us consider the Rule applicable with reference to the proved charges. Section 8 of the CISF Act, 1968 provides dismissal or removal etc., of enrolled members of the Force. Sub Clause (ii) enumerates that award anyone or more of the following punishments to any enrolled member of the Force who discharges his duty in careless or negligent manner, or who by any act of his own renders himself unfit for the discharge there of namely:-

(a) fine to any amount not exceeding seven days or reduction in pay scale;

(b) drill, extra guard, fatigue or other duty.



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(c) removal from any office of distinction or deprivation of any special emolument.

(d) withholding of increment of pay with or without cumulative effect.

(e) withholding of promotion.

(f) Censure.

The corresponding Rule 34 of the CISF Rules, 2001 denotes the nature of penalty to be imposed by the competent authority.

8. The question arises whether major penalty imposed on the petitioner is in commensuration with the provisions of the Act and Rules regarding the nature of charges proved against the writ petitioner. The charge against the writ petitioner was that he committed an act of negligence and dereliction of duty and the said charges against the writ petitioner was held proved before the Enquiry Officer. Thus, there is an impediment to impose major penalty with reference to the proved charges, as it was only an act of negligence and dereliction of duty. Once the charge is negligence and dereliction of duty, then Section 8(ii) is to be applied, which contemplates that, with reference to the allegations of careless or negligent manner of



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performing duty, then minor penalties should be imposed. Thus, the Disciplinary Authority is empowered to impose any one of the punishments contemplated under the minor penalties incorporated under the Section 34 of the CISF Rules, 2001. Imposing of major penalty on the writ petitioner is not in consonance with the scheme or Act and Rules.

9. Thus, this Court is of the considered opinion that the punishment imposed on the petitioner is in violation of the provisions of the Rules dealt with in the aforementioned paragraphs and thus, the punishment is to be modified. Normally the Court will remand the matter back for reconsideration for imposing appropriate punishment by the competent authorities, however, in the present case, the incident occurred in the year 2012 and the punishment was imposed on 22.03.2013 and now the decision in the present writ petition is taken after a lapse of about 9 years.

10. Thus, this Court is not inclined to remand the matter back. Contrarily, this Court has decided to modify the major punishment that of the minor penalty as contemplated under Rule 34 (c) of CISF Rules,



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11. Accordingly, the impugned orders passed by the fifth respondent dated 22.03.2013 in Order No.V-15014/CISF/Dis/Major - 10/RNS/12.13/2892 confirmed by the fourth respondent in proceedings dated 23.08.2013 in Order No.V-11014/29/Disc/Sz/2013/6230 and further confirmed by the third respondent dated 27.01.2014 in Order No.V-15014/L&R/SS/Rev/RNS/013-941 are quashed and the major penalty of reduction of pay by 2 stages from Rs.15,530/- to Rs.14,710/- in pay band II of Rs.9,300/- to Rs.34,800/- with Grade Pay of Rs.4,200/- for period of one year with cumulative effect and the petitioner will not earn increment of pay during the period of reduction and that on expiry of this period the reduction will have the effect of postponing his future increments of pay **stands modified** as 'the reduction of pay by 2 stages from Rs.15,530/- to Rs.14,710/- in pay band II of Rs.9,300/- to Rs.34,800/- with Grade Pay of Rs.4,200/- for period of one year without cumulative effect.

14. Therefore, writ petition stands allowed in part. No costs.



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15. The respondents are directed to settle the excess amount of pay recovered from the writ petitioner and all other benefits within a period of two weeks from the date of receipt of copy of this order.

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mrm/psa
Index: Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order

To

- 1.The Union of India,
Rep. by its Secretary to Government,
Ministry of Home Affairs,
North Block, New Delhi.
- 2.The Director General,
Central Industrial Security Force,
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S.M.SUBRAMANIAM., J

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