



W.P.No.18366 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.18366 of 2018

M.Govindaraj

.... Petitioner

-Vs-

- 1 The Director General
Directorate General CISF CGO Complex
Lodhi Road New Delhi-110 003.
- 2 The Inspector General of Police
CISF SS HQRS Chennai.
- 3 The Dy. Inspector General of
Police CISF GP HQRS D Block Rajaji
Bhavan Besant Nagar Chennai-600 090.
- 4 The Group Commandant
CISF GP HQRS D Block Rajaji Bhavan
Besant Nagar Chennai-600 090.
- 5 The Dy. Commandant
CISF Unit CPCL Manali Chennai-600 068.
- 6 The Revenue Divisional Officer
Sathuvachari Vellore-632 009 Vellore District.
- 7 The District Adi Dravida and
Tribal Welfare Officer Collectorate
Building Sathuvachari Vellore-632 009.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus Calling for the records pertaining to the



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order of 4th respondent herein made in proceedings No.V-15014/ GHC/AD-VI/ Disc/Maj.M.G./ CPCL/2015/962 dated 14.05.2015 imposing punishment of removal from service and quash the same and direct the respondents to re-instate the petitioner into service and process his case as per the instructions given in GO(2D) No.108 dated 12.09.2007 issued by the Adi Dravidar and Tribal Welfare Department Tamil Nadu State.

For Petitioner : Mrs.R.Meenakshi

For Respondents : Mr.A.Murugan,
Central Government Standing Counsel
- for RR 1 to 5

Mr.T.Sampath Kumar,
Government Advocate – for RR 6 & 7

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus Calling for the records pertaining to the order of 4th respondent herein made in proceedings No.V-15014/ GHC/AD-VI/ Disc/Maj.M.G./ CPCL/2015/962 dated 14.05.2015 imposing punishment of removal from service and quash the same and direct the respondents to re-instate the petitioner into service and process his case as per the instructions given in GO(2D) No.108 dated 12.09.2007 issued by the Adi Dravidar and Tribal Welfare Department Tamil Nadu State.

2. The petitioner joined in CISF (Central Industrial Security Force) in the rank of Followers ie., Sweeper from 12.11.1993 and was posted at Port Trust, Chennai. Subsequently on his selection for the post of constable, he was appointed as



Constable-GD on 04.05.1997 and went for basic training in 1997 at Arakkonam.

Thereafter he was posted at various place like Duliajan Assam, Haldia West Bengal, Vishakhapatnam Andhra Pradesh etc and again was posted at Chennai in 2012.

3. In the year 2014, a charge memorandum has been issued against the petitioner by initiating a disciplinary proceedings. The sum and substance of the charge was that he produced a community certificate as if that he belongs to Scheduled Tribe (ST) community and on verification, it was found that it was a forged one, based on which the said charge was framed. Pursuant to the charge, an enquiry was conducted after completing the enquiry the disciplinary authority had concurred with the report submitted by the Enquiry Officer, where the charge had been proved and decided to inflict the maximum punishment of removal from service against the petitioner by order dated 14.05.2015. Challenging the said order the petitioner has moved the present writ petition.

4. Heard Mrs.R.Meenakshi learned counsel for the petitioner, who would submit that it was a genuine community certificate that the petitioner belongs to ST community and in respect of which the School Transfer Certificate also had been produced, which also suggests that the petitioner belongs to ST community, based on which such a certificate was obtained from the petitioner from the Tahsildar from the year 1990 itself, as in the year 1990 the Tahsildar was empowered to issue such a community certificate even for ST candidates. However, it was wrongly construed



that the certificate was issued on 12.08.1992 and that date was suo motu fixed by the respondents, based on which enquiry seems to have been conducted with the Revenue Divisional Officer (RDO), who seems to have given a report that, after 1990 only the RDO has to give certificate for ST candidates and in 1992 if the certificate was produced as if it was given by Tahsildar, certainly is an ingenuine one or fradulent one and based on the report received from the RDO, Gummidipoondi, who is the jurisdictional Tahsildar, no such certificate was issued and based on this communication, the respondents have come to the conclusion that the community certificate of the petitioner was a forged or bogus one. Therefore, on that basis they came to a cryptic conclusion that the petitioner has misrepresented or produced a forged certificate, based on which he got appointed and worked for more than two decades and accordingly they inflicted the maximum punishment of removal from service.

5. Therefore, the learned counsel for the petitioner would contend that, the reasons stated by the respondents and the way in which they came to the conclusion that the community certificate of the petitioner was a forged one is not based on any evidence. Hence, the very enquiry conducted in this regard by the respondents is not in consonance with the service jurisprudence and the genuinity of the community certificate should have been verified only as per the method to be adopted in this regard and therefore, the impugned order dated 14.05.2015 inflicting punishment against the petitioner, that too maximum punishment of removal from service is



unlawful and that is liable to be interfered with. Hence, the learned counsel for the petitioner seeks the indulgence of this Court.

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6. However, Mr.A.Murugan learned Central Government Standing Counsel appearing for the respondents 1 to 5 would rely upon the enquiry officer's report as well as the order passed by the disciplinary authority and also the clarification given by the RDO concerned, from whom such certificate was sought for by the respondents. In the said clarification dated 29.03.2014, the RDO Vellore has sent the following communication.

“ In the reference 1st cited, you have requested for the genuineness of the Scheduled Tribe Caste Certificate issued to Thiru.M.Govindaraj, S/o R.Munisamy of Brammapuram Village, Gudiyatham Taluk, North Arcot Ambedkar District on 12.08.1992. In this issue, this village (Koranthangal, H/o.Brammapuram) lies in Katpadi Taluk from the year 1998. Before that, the village was under the jurisdiction of Gudiyatham Taluk. As per the report of the Tahsildar Gudiyatham, in the reference 3rd cited, the S.T.Certificate issued to Thiru.M.Govindaraj, S/o R.Muniwamy is not a genuine one. It is a false certificate. Only Revenue Divisional Officers are empowere to issue Scheduled Tribe Community from the year 1990. Based on the records available and scrutiny of the records, the certificate produced by Mr.M.Govindaraj is a false one and not genuine.”

7. That apart, independently an enquiry was conducted by way of disciplinary proceedings, where the petitioner was not able to provide any substantial evidence to



establish that the community certificate was a genuine one. Moreover if the community certificate was issued in the year 1992 , that should have been issued only by the RDO and not by the Tahsildar, Gudiyatham. Hence, on that ground itself it can easily be found that the certificate concerned is a bogus one or forged one. When the petitioner claimed the post of Constable based on the communal reservation of ST candidates and for such claim, he produced only the community certificate, which is in question and based on which he was appointed and enjoyed the post for more than two decades and after a long time it was brought to the notice of the respondents that the certificate is a forged one, such an enjoyment of the post for 20+ years having been taken into account, the punishment of removal from service has been inflicted against the petitioner, he contended.

8. I have considered the rival submissions made by the learned counsel for both sides and have perused the materials placed on record.

9. The photocopy of the community certificate in question has been produced before this Court as a document in the typed set of papers. On a perusal with the naked eye, one can easily find that the certificate was issued by Tahsildar, Gummidipoondi, North Arcot District. However, the date of the certificate found, though was not legible, as nothing has been stated therein, the respondents to some extent was able to find that it was sometime in 1992 ie., 12.08.1992. However, from 1990 onwards the community certificate for ST candidates has to be given only by the



RDO concerned and not by Tahsildar. Therefore, in 1992 no such certificate could have been issued by the Tahsildar.

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10. Even though in this regard, the learned counsel for the petitioner submitted that, it is not 1992 and it was only 1990 that such a certificate was given, there is no proof to establish that that the certificate was issued in the year 1990 as no such date has been mentioned in the certificate.

11. When a clear copy of the certificate has been filed in the typed set of papers by the petitioner himself, he seems to have stated that the date of the certificate is 12.08.1992. If that is taken into account, the said conclusion arrived at by the respondents that the certificate ought not to have been issued by the Tahsildar because in 1992 no such power vested with the Tahsildar, is a correct conclusion.

12. Based on such forged document since the petitioner has claimed appointment and accordingly he was appointed and enjoyed the post for more than two decades, there was a clear charge framed against the petitioner pursuant to which enquiry was conducted and ultimately they found that the charge framed against the petitioner was proved and since it is a very serious charge, which has been proved against the petitioner, the respondents thought it fit to inflict the maximum punishment of removal from service against the petitioner and that punishment, in the considered opinion of this Court, is commensurate with the said



violation on the part of the petitioner and therefore, even the quantum of punishment cannot be interfered with.

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13. Though there was a fraud committed by the petitioner even according to the respondents, by producing the said certificate which is a bogus one, according to them no police complaint had been given by the respondents and no reason has been stated as to why a police complaint has not been given to set the criminal law in motion against the petitioner for such fraudulent action.

14. If these kind of cases have not been properly dealt with by the CISF, which is a disciplined force by referring the matter to the concerned police to take stock of the situation, it could be treated as dereliction of duty on the part of the respondents. Therefore, this Court wants to remind the respondents that hereafter in such cases where there is a proven fraud is committed by a member of the force like the respondent CISF, immediate police complaint has to be given setting the criminal law in motion and failure to initiate such action amounts to be treated as dereliction of duty by the employer, for which disciplinary action can be taken against such erring officer concerned or authority concerned.

15. In view of the aforestated facts and circumstances and the discussion made hereinabove, this Court is inclined to pass the following order in this writ petition.



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- That the ground raised by the petitioner against the impugned order fails and therefore the writ petition is liable to be dismissed. Hence, it is dismissed. No costs.
- The observation made against the respondent department in not initiating police complaint setting the criminal law in motion against the petitioner shall be taken into account and in this regard a circular to that effect shall be issued by the Director General of Police of CISF to all his subordinates that hereafter they should scrupulously follow such direction to set the criminal law in motion, apart from the departmental enquiry in a case like the present one, where there is evidence to show that a fraud or forgery has been committed by a member of the disciplined force.

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Index : Yes/No
Internet : Yes/No
KST

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R. SURESH KUMAR, J.

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