



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 14.12.2021
DELIVERED ON : 31.01.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.4409 of 2013

and

M.P. (MD)No.1 of 2013

WEB COPY

Sanjeev Kumar

... 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,
No.13, CGO Complex, New Delhi.

3.The Inspector General,

Central Industrial Security Force,
Southern Sector,
War Memorial, Ch.P.T., Chennai-600 009.

4.The Deputy Inspector General,

Central Industrial Security Force,
South Zone, D-Block,
Rajaji Bhawan, Chennai-600 090.

5.The Commandant,

Central Industrial Security Force Unit,
Tuticorin Port Trust, Tuticorin.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the third respondent dated 14.10.2010 in his order No.V-15014/Rev/MC/RSS/2010-734 confirming the order of the fourth respondent dated 25.06.2010 in his Letter No.V-11015/09/Admn/S.Z/2010/3728 confirming the order of the fifth respondent in his final order No.V-15014/CISF/TPT/Disc/Maj-06/MC/2009/4677, dated 29.10.2009 and quash the same and direct the respondents to pay all the back wages monetary benefits of the father of the petitioner to the petitioner.

For Petitioner : Mr.K.Vadivelu
for Mr.A.S.Mujibur Rahman

For Respondents : Mr.K.R.Laxman
GCSC for R1 to R5



O R D E R

This Writ Petition is filed to quash the impugned dismissal order, dated 14.10.2010 and confirmed by the Appellate Authority order, dated 29.10.2009 and direct the respondents to pay all the back wages, monetary benefits of the petitioner's father.

2. The brief facts of the case are that the petitioner's father had joined the Central Industrial Security Force (CISF) on 07.05.1984 and remained at various places in India. The petitioner's father was posted in CISF Unit, TPT Tuticorin. While he was in duty on 27.05.2009, when the time of shift was over, the petitioner's father left to the room of one Shri. Poonumuthu, since at about 12.30 hours a drive came to him and requested to meet Shri.Poonumuthu. When the petitioner's father was in the room of the said Poonumuthu, the Inspector, namely, Annamalai, involved the petitioner's father in a false case stating that the petitioner father earned Rs.210/- (Rupees Two Hundred and Ten only) by illegal means and has reported the matter to the higher authorities. The higher authorities appointed the Enquiry Officer and in enquiry the petitioner's father was held guilty. The contention of the petitioner is that the false case has been implanted on his father and has relied on deposition of the witness. There is no occasion to take money from any person, the respondents have wrongly implanted the petitioner's father in a bribe case. Therefore, the petitioner prays to set aside the three impugned orders and to direct the authorities to grant all backwages.

3. The fifth respondent has filed a counter affidavit and has narrated the Charge Memos, the details of the enquiry and the exhibits deposition of witness. Then the opportunity was granted to the petitioner's father, thereafter, it has come to the conclusion that the petitioner's father was guilty of bribery. Based on the enquiry report the petitioner's father was dismissed from service.

4. Heard Mr.K.Vadivelu, learned Counsel appearing for the petitioner and Mr.K.R.Laxman, learned Counsel appearing for the respondents.

5. The petitioner's contention that his father after the shift was over has entered the room of the said Mr. Poonumuthu. The said Poonumuthu was a third person who was serving as a driver for a third person's Institution. The allegation against the petitioner's father was that the delinquent was allotted for A shift duty from 05.00 hours to 13.00 hours on 27.05.2009 at Blue Gate. During a surprise check conducted at the duty post at around 12.50 hours by Inspector Annamalai and HC/GD M.P Chacko, it was found that petitioner's father was counting some currency notes inside the Door No.3 of Ware House-I and concealed the amount under the newspaper. The team seized the amount and found a sum of Rs.210/- (Rupees Two hundred and ten only) (The denomination being 100x1, 20x1, 10x9).



Since the delinquent could not explain the source of seized money, the said officers had come to the conclusion that the delinquent has earned Rs.210/- (Rupees Two Hundred and Ten only) while on duty which tantamount to gross misconduct, violation of instruction and unbecoming of member of disciplined force. Hence a Charge Memo, dated 13.06.2009 was issued and the delinquent was placed under suspension with effect from 29.05.2009, vide order, dated 28.05.009. The Enquiry Officer conducted an enquiry as per laid down procedure under Rule 36 of CSIF Rules 2001. The respondents have granted adequate opportunity to the delinquent to defend his case. The Enquiry Officer has submitted his findings on 18.09.2009 and the report states that the charges held against the Officer is proved, thereafter, the copy of the report was served to the delinquent on 26.09.2009 and 15 days time was granted to submit an explanation. The delinquent submitted an explanation on 18.10.2009. Since it was not satisfactory, the delinquent was imposed the punishment of removal from service, vide order, dated 29.10.2009.

6. The delinquent has submitted an appeal petition on 03.12.2009 and the appeal was rejected by the Appellate Authority on 25.06.2010. Thereafter, the delinquent has preferred a Revision petition on 27.07.2010 and the same was rejected on 14.10.2010. Aggrieved over the same, the present writ petition is filed.

7. The petitioner submitted that the respondents have obtained the statement from the said Poonumuthu, wherein it is stated as under:

"I, the above addressee serving in St. John Freight Systems for the last 12 years as Executive on 27.05.09. I was detailed in day shift from 09.00 hours at Blue Gate (in gate) for control our container movements at about 12.50 hours. One CISF Head Constable Mehar Chand was on duty at Blue Gate came to Shed No.1 (ware house) where I was keeping my office and he tendered several ten rupee notes and asked for Rs.100/- and Rs.50/- notes. At that movement Inspector/Exe.K.Annamalai and HC/GD M.P.Chacko rushed on my office and seized the amount which was kept on my table. The note were counted which amounts to Rs.210/-.

8. In the statement, it has been stated that the delinquent has tendered ten rupee notes and asked for Rs.100/- or Rs.50/- notes and has also stated that Mr.Annamalai and Mr.M.P.Chacko rushed to his Office and seized the amount which was "kept on his table". The said Poonumuthu was not examined by the Enquiry Officer, rather the said Poonumuthu was not called for enquiry at all.

9. The statement of Mr. Annamalai was that the delinquent was found counting some notes in front of Poonumuthu. On seeing Mr.Annamalai and Mr.M.P.Chacko, the delinquent concealed the notes.



The relevant portion is extracted hereunder.

"He was found inside the door No.3 of Ware House-1. He was found counting some notes in front of Mr.Poonumuthu N.Executive, M/S St.John Freight Systems. On seeing me and HC/GD M.P.Chacko, HC/GD Mehr Chand concealed the notes"

10. In the statement Mr. Chacko, it is stated that at about 12.50 hours, the delinquent was not available at Blue gate and when Mr. Chacko reached there, he saw the supervisor of St. John Freight Shri.Poonumuthu was counting some currency notes. When seeing Mr. Annamalai, he concealed the money under the challan book and the relevant portion is extracted hereunder.

"At about 12.50 hrs. HC/GD Mehar Chand was not available at Blue Gate. He was found inside the Ware House-1 Shed No.III. When I reached there, I saw supervisor of St.John Freight Shri Poonumuthu was counting some currency notes. When seeing the Insp/Exe K.Annamalai he concealed the money under the challan book"

11. It is seen that the statements of Mr.Annamalai and Mr.Chacko are inconsistent with each other. The version of the said Poonumuthu is different. The said Mr. Poonumuthu has stated that the Officer seized the amount which was kept on the table. Mr. Annamalai statement says that the delinquent was counting notes in front of Mr. Poonumuthu and on seeing, the delinquent concealed the notes. Mr. Chacko statement says that Mr. Poonumuthu was counting currency notes and Poonumuthu has concealed the money under the challan book. There is a clear inconsistency in the statement of three persons. It is seen that the petition is filed by the son of the deceased delinquent. The son is seeking to quash the punishment order of removal of service and grant the backwages. It is also seen that the delinquent has put up service for more than 20 years. When there is inconsistency in the statement, the benefits ought to have been granted to the delinquent. In the said circumstances, the punishment of removal from service is disproportionate and it is hitting the conscience of the Court. Therefore, the punishment of removal from service is modified as compulsory retirement. Therefore, the respondents are directed to modify the punishment and pay all the terminal benefits to the family of the deceased delinquent. The Honourable Apex Court has held that the Courts can interfere in the punishment, if the punishment is disproportionate. Therefore, the case has to be remitted back to the authority for reconsideration of the punishment. If it is remitted back to the authority for reconsidering the punishment, this would unnecessarily delay the process and the family will suffer. Therefore, in order to avoid the delay, this Court has reduced the punishment to compulsory retirement. The respondents are directed to modify the punishment and pay the monetary benefits to the family within a period of six weeks from the date of receipt of copy of the order.



12. Hence, the Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

WEB COPY

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

- 1.The Secretary to Government,
The Union of India,
Ministry of Home Affairs, New Delhi.
- 2.The Director General,
Central Industrial Security Force,
No.13, CGO Complex, New Delhi.
- 3.The Inspector General,
Central Industrial Security Force,
Southern Sector,
War Memorial, Ch.P.T., Chennai-600 009.
- 4.The Deputy Inspector General,
Central Industrial Security Force,
South Zone, D-Block,
Rajaji Bhawan, Chennai-600 090.
- 5.The Commandant,
Central Industrial Security Force Unit,
Tuticorin Port Trust, Tuticorin.

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-3623[F] dated 02/02/2022)
+1 CC to M/s.A.S.MUJIBUR RAHMAN, Advocate (SR-3088[F] dated
31/01/2022)

W.P. (MD)No.4409 of 2013
31.01.2022

RD(25.02.2022) 5P 8C