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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.16276 of 2015

and

M.P. (MD)No.1 of 2015

1. Krishna Pillai ... 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,
CGO Complex,
Lodhi Road,
New Delhi - 110 003.

3. The Inspector General,
Central Industrial Security Force,
Southern Sector, Head Quarters,
Chennai Port Trust Campus,
Near War Memorial,
Chennai - 600 009.

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

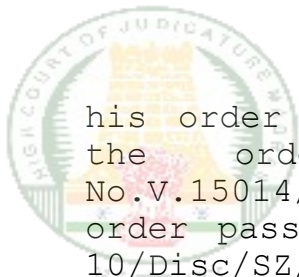
5. The Senior Commandant,
Central Industrial Security Force,
Cochin Shipyard,
Cochin, Kerala State.

6. The Assistant Commandant,
Central Industrial Security Force Unit,
Cochin Shipyard,
Cochin, Kerala State.

... 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 in

<https://hcservices.ecourts.gov.in/hcservices/>



his order No.V-15014/1&R/SS/Rev/TKP/2014-161, dated 31.07.2014 and the order passed by the third respondent order No.V.15014/1&R/SS/Rev/TKP/2014-190, dated 17.09.2014 modifying the order passed by the fourth respondent in his order No.V-11014(1)/10/Disc/SZ/2014-1831 dated 10.03.2014 modifying the order of the fifth respondent in his final order No.V-15014/CISF/CPT/Disc/Maj-TKP/2013/6189, dated 04.12.2013 and quash the same and to direct the respondents to take petitioner in the strength of CISF as Head Constable with all monetary benefits.

For Petitioner : Mr.Vadivelu

For Respondents : Mr.D.Saravanan
Central Government Standing Counsel

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the order passed by the third respondent in order No.V-15014/1&R/SS/Rev/TKP/2014-161, dated 31.07.2014 and the order passed by the third respondent dated 17.09.2014 modifying the order passed by the fourth respondent in his order No.V-11014(1)/10/Disc/SZ/2014-1831 dated 10.03.2014 modifying the order of the fifth respondent dated 04.12.2013 and to direct the respondents to take petitioner in the strength of CISF as Head Constable with all monetary benefits.

2. The petitioner joined as Constable in the Central Industrial Security Force on 15.02.1983. On 23.08.2013, a Charge Memo under Rule-37 of the CISF Rules was issued against the petitioner. On 21.08.2013 while watching T.V. in full volume in the recreation hall of CISF unit CSY-Cochin, the petitioner was directed to reduce the volume of TV, but the petitioner shouted and uttered unparliamentary language against his Higher Officer, namely, Muhamad Ali, the said act amounts to gross act of indiscipline, misconduct and insubordination, since the petitioner being in the uniformed force. The petitioner has submitted his explanation and the Enquiry Officer was appointed. After enquiry, the charges were held to be proved. The disciplinary authority granted opportunity to the petitioner to submit his explanation, the petitioner submitted the explanation and thereafter the petitioner was imposed punishment of removal from service. The petitioner has preferred an appeal before the fourth respondent and the punishment was modified as Compulsory Retirement. Thereafter, the petitioner has filed a writ petition in W.P.(MD)No.5692 of 2014, challenging the order of the fourth respondent and this Court directed the petitioner to file a Revision Petition before the third respondent. The Revision Petition was filed on 23.04.2014 before the third respondent and the punishment



was further modified as Reduction of pay by three stages for a period of three years and there was a cut in future increments. The third respondent has also ordered the period from 04.12.2013 to 17.08.2014 as Dies-non, vide order, dated 17.09.2014. Aggrieved over the order, the petitioner has filed this present writ petition.

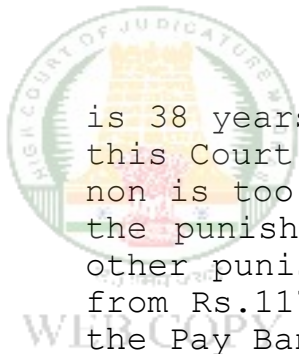
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3. The respondents have filed a counter affidavit stating that the petitioner was granted an adequate opportunity to represent before the enquiry authority. The petitioner requested to examine his Higher Authority, namely, Muhamad Ali and he was also allowed to depose and the petitioner cross examined the said Muhamad Ali. Based on the contents of the statements of the said Muhamad Ali, the petitioner cross-examined all the witness. Therefore, there is no violation of principle of natural justice. The witness, namely, Vasantha (PW-3) had clearly deposed that she returned back to the spot along with the Coy CHM, seeing the petitioner was standing near Muhamad Ali in a hostile manner and also moved towards Muhamad Ali had also stated that the petitioner went near Muhamad Ali by catching one end of the lungi and keeping his hand on his waist and shouted un-parliamentary words. The respondents have also stated that the petitioner's aggressive nature towards the said Muhamad Ali. Therefore, the punishment was imposed and on appeal, the punishment was reduced.

4. Heard Mr.Vadivelu, learned Counsel appearing for the petitioner and Mr.D.Saravanan, learned Counsel appearing for the respondents.

5. The charge against the petitioner is that he had raised volume of Television in the recreation room and he had used un-parliamentary words. The contention of the petitioner is that he was alone in the recreation room, since nobody was available in the recreation room, the petitioner has raised the volume. The higher Authority Mr.Muhamad Ali entered the room and directed the petitioner to reduce the volume and left the room. Thereafter, another person entered the room and he has also directed to reduce the volume since the petitioner was not reducing, he also left the room. Then the said Mr.Muhamad Ali again entered the room and shouted the petitioner and the petitioner has also shouted at the said Mr.Muhamad Ali. The contention of the respondent is that the petitioner had shouted at the Higher Authority since the said act amounts to gross act of indiscipline, misconduct and insubordination.

6. This Court fails to understand the attitude of the parties, since the entire incident occurred in the recreation room and was not happened during the duty period. The recreation room is created for relaxation. Therefore, the respondents cannot expect their cadres to behave in the same way as during the duty. Therefore, this Court is of the considered opinion that even in the revision order, the punishment is too harsh. It is seen that the petitioner



is 38 years old at the time of filing the writ petition. Therefore, this Court is of the considered opinion that the punishment of Dies-non is too harsh on the petitioner. Therefore, this Court set aside the punishment of Dies-non order dated 07.09.2014. As far as the other punishment is concerned, the reduction of pay by three stages from Rs.11750/- + GP Rs.4200/- to Rs.10410/- with GP of Rs.4200 in the Pay Band-II i.e., Rs.9300-34800/- for a period of three years is confirmed. Further punishment of "that he will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction to postponing his future increments of pay" is set aside.

7. With this modification, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

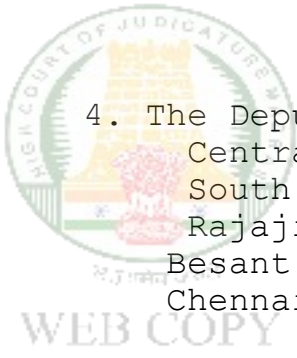
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Note:

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

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Ministry of Home Affairs,
New Delhi.
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Cochin, Kerala State.

+1 CC to M/s.A.S.MUJIBUR RAHMAN, Advocate (SR-6418[F] dated 16/02/2022)

+1 CC to M/s.D.SARAVANAN, Advocate (SR-6294[F] dated 15/02/2022)

W.P. (MD) No.16276 of 2015

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