



W.P.(MD)No.22716 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.04.2022

PRONOUNCED ON : 05.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.22716 of 2016
and
W.M.P.(MD)No.16254 of 2016

T.Jayasingh

... Petitioner

Vs.

1.The Additional Director General,
South Zone, CRPF,
Hyderabad, Telangana State.

2.The Inspector General,
Southern Sector, CRPF,
Road No.10C, Gayathri Hills,
Jubilee Hills,
Hyderabad-500 033,



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Telangana State.

3.The Deputy Inspector General of Police,
Range HQR, CRPF,
Bangalore-64.

4.The Commandant,
109 BN, C.R.P.F.,
Mongsangai-PS,
Manipur-795 003.

5.The Deputy Inspector General of Police,
CRPF Group Centre,
Aavadi, Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the fourth respondent in No.P.Ath-3/2104-109-stha-2,, dated 24.09.2014 and being merged with appellate order of the third respondent in No.R.XIII.14/2014-EC.3, dated 09.12.2014 and the revisional order of the second respondent in No.R.XIII.25/2015-Adm-7, dated 22.06.2015 and the order of the first respondent passed in mercy petition in No.R.XIII-01/2015-sz-LEGAL, dated 17.06.2016 and quash the same and consequently directing the respondents to reinstate the



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petitioner with all back wages and service and monetary benefits.

For Petitioner : Mr.B.Brijesh Kishore

For Respondents : Mr.K.R.Laxman

Central Government Standing Counsel

ORDER

This Writ Petition is filed to quash the impugned order dated 24.09.2014, appellate order dated 09.12.2014, revision order dated 22.06.2015 and mercy petition order dated 17.06.2016 with consequential prayer to direct the respondents to reinstate the petitioner with all back wages, service and monetary benefits.

2. The brief facts of the case are that the petitioner was recruited on 05.03.1991 and after training, initially he was posted in Andaman Nicobar Island. Thereafter, on 30.07.2007, he was posted in Raj Bhavan, Imphal. On 17.03.2014, when the petitioner went to wash the plate at wash area after having dinner, he slipped and fell down and sustained a deep cut injury on his forehead and he was profusely bleeding from the wound. When the petitioner cried for help, some soldiers came for rescue and tried to cover the wound, but



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was unable to stop the bleeding.

3. The contention of the petitioner is that he was not immediately taken to hospital as the soldiers were waiting for the orders of the Coy / Commander for doing so. The petitioner was left without any first aid for nearly 1-1/2 hours. Thereafter, after receiving orders from the Coy / Commander, the petitioner was taken to private hospital, where the doctor treated the petitioner, without giving any anesthesia or pain killer and started to stitch the wound. Since the pain was intolerable, after some stitches were over, the petitioner requested to take him to Unit Hospital or other hospital. When the same was informed to the Coy / Commander, the Commander came to the spot and insisted him to continue the stitches without applying anesthesia or pain killer. Because of the pain, the petitioner shouted at everyone. Thereafter, the respondent suspended the petitioner stating that the petitioner was drunkard and misbehaved with the Higher Officials and thereafter, brought to the Unit Hospital and in order to create documents to support the suspension order on the ground of drunkenness, a medical report was prepared. In the medical report, it was stated that the petitioner was



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tested positive in the breath analysis even though in the blood test it was negative. On the basis of the certificate obtained from the Unit Hospital, disciplinary proceedings were initiated against him on the following charges:

- 1) Found creating nuisance and scolding everyone under the influence of alcohol while on active duty in the Raj Bhavan.
- 2) Committed an act of misconduct, he abused and tried to assault the Assistant Commander under the influence of alcohol.
- 3) Committed an act of misconduct, he fell down upon a Sintex tank on his own and sustained injury on his forehead. While taking treatment/stitching of cut injury, he was found scolding /abusing everyone with filthy language.

4. Based on the above charges, an enquiry was conducted and after giving adequate opportunity, the disciplinary authority has awarded a punishment of compulsory retirement with full compensation, pension and



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gratuity on 24.09.2014. Aggrieved over the same, the petitioner preferred an appeal and the same was dismissed on 09.12.2014. The petitioner filed a revision petition on 30.12.2014 and the same was dismissed on 22.06.2015. Thereafter, the petitioner filed a mercy petition and the same was dismissed on 17.06.2016. Aggrieved over the above, the present writ petition has been filed.

5. The respondents have filed counter affidavit, stating that while the petitioner was serving in Raj Bhavan, Imphal, Manipur, on 17.03.2014, he was found under the influence of alcohol and created nuisance by shouting / scolding everyone and he fell down upon the Sintex tank which was placed at washing point of mess, resulting in cut injury on his forehead. He was taken to the hospital and when the Officer tried to persuade him, the petitioner abused him with filthy language. The petitioner was sent to Shija Hospital, which is nearest to the Raj Bhavan along with protection party. In the hospital, he refused to take necessary treatment. Further, he started to abuse the hospital staff and behaved abnormally. In view of his rude and absurd



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behaviour, the Medical Officer of Shija Hospital refused to entertain the patient and provide necessary medical assistance. The matter was brought to the notice of the Assistant Commissioner, who was in Raj Bhavan premises and he rushed to the hospital and persuaded the reluctant Medical Officer and Staff to provide treatment to the petitioner. Because of his misbehaviour, a show cause notice was issued and charges were framed and enquiry was conducted and thereafter, after taking the evidence on record, the petitioner was awarded punishment of compulsory retirement and full benefits was granted to the petitioner. The appeal, revision and the mercy petition were considered by the respondents and since the petitioner has not convinced the authorities for reducing the punishment, the punishment was confirmed. The respondent submitted that the offence committed by the petitioner warrants strict and stringent punishment. The petitioner has put in 23 years of service in Central Reserve Police Force and taking his long service into consideration and after evaluating the evidence and witness in the light of law, the present punishment was imposed. The petitioner has not raised any ground to consider modification of punishment. Therefore, the respondents pray to dismiss the



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Writ Petition.

6. Heard Mr.B.Brijesh Kishore, the learned counsel appearing for the petitioner, Mr.K.R.Laxman, the learned Central Government Standing Counsel appearing for the respondents and perused the materials available on record.

7. The respondents raised a plea that this Court has no jurisdiction, since the entire cause of action arose outside Tamil Nadu. The contention of the petitioner is that subsequent communication was sent to the petitioner's Kanyakumari address and therefore, the fifth respondent who is in Avadi has jurisdiction. The punishment order and other orders were communicated to the petitioner's Kanyakumari address. Therefore, this Court holds that this Court has jurisdiction to entertain the same.

8. The learned counsel for the petitioner contended that the petitioner was not under the influence of alcohol. The breath analysis test is



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against the petitioner, but the respondents have taken a blood test, wherein the result is negative and the Unit Hospital has issued a certificate to this effect. Therefore, the charge of intoxication is not proved and the basis of the charge itself is against the evidence.

9. The next contention raised by the petitioner is with regard to the charge of creating annoyance and scolding everyone with filthy language. The contention of the petitioner is that the petitioner was not rushed to the hospital immediately, even though he had a cut injury in the forehead. The respondents have not taken any initiative to provide first aid to the petitioner. The attitude of the respondents was cruel and only because of this attitude the petitioner scolded everyone. The petitioner was under stress and strain due to continuous bleeding, the same cannot be a ground to frame charges against the petitioner. Even if it is considered as one of the ground, then the petitioner pleaded for lessor punishment. Therefore, this Court is of the considered opinion that the petitioner has not deliberately committed any offence and the order of punishment is liable to be interfered.



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10. It is seen from the records that the petitioner accidentally fell down while washing his plate. The allegation against the petitioner is that only under the influence of alcohol he has fell down and misbehaved with others. On perusal of records, it is seen that after taking blood test, the Unit Hospital has given a negative report which proves that the petitioner was not under the influence of alcohol. Therefore, this Court is of the considered opinion that the petitioner has accidentally fell down and he sustained head injury and because of pain, profuse bleeding and delayed medical treatment the petitioner had shouted at others. When the basic allegation that the petitioner was under the influence of alcohol is disproved, the other allegations against the petitioner ought to be considered sympathetically. Therefore, this Court is of the considered opinion that the punishment is higher and therefore, the same is set aside. The respondents are directed to impose the punishment of stopping of increment for three years without cumulative effect and the suspension period shall be regularized as his duty period. The period where the petitioner is “out of service” from the date of



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punishment of compulsory retirement till reinstatement shall be treated as continuity of service, however the petitioner is not entitled to any monetary benefits including salary for the said period.

11. Accordingly, the respondents are directed to modify the punishment within a period of six weeks from the date of receipt of a copy of this order.

12. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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