



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.03.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY
W.P. (MD)No.23868 of 2016

WEB COPY

M.Shankar

... Petitioner

vs

1. The Union of India,
represented by its Secretary to Government,
Minister 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,
New War Memorial, Chennai - 600 009.
4. The Deputy Inspector General,
Central Industrial Security Force,
Neyveli Lignite Corporation Ltd.,
Neyveli, Cuddalore District.
5. The Senior Commandant,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation Ltd.,
Neyveli, Cuddalore District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, call for the records relating to the order passed by the third respondent, dated 18.10.2016 in his order No.V-15014/L&R/SS/Rev/MS/2016-12057 confirming the Appellate order passed by the fourth respondent 15014/CISF/NLC/Disc/Appeal-36/MS/2015/1719, dated 18.03.2016 the confirming the final order passed by the fifth respondent, dated 16.01.2016 in his final order No.15014/CISF/NLC/Disc/Maj-(23)/MS/2015/360 and quash the same and direct the respondents to pay all the monetary benefits.

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

For Respondents : Mr.C.Nandagopal
Central Government Standing Counsel

**ORDER**

The writ petition is filed challenging the punishment award dated 16.01.2016 confirmed by the Appellate order, dated 18.03.2016 and Review order, dated 18.10.2016.

2. The allegation against the petitioner is that while he was performing his duty 18.05.2015 to 26.07.2015 was involved in tampering of mess caution money registered to get Caution money of Rs.3,000/- (Rupees Three Thousand only) deposited by S.P.Nayak by applying the correction fluid on the number and name of S.P.Nayak from the current updated caution money register. The contention of the petitioner is that he was not holding the post during that period. The incident happened on 15.02.2015 and during that period, the petitioner was not entrusted with the working of maintaining the Caution Money Register. The respondents have issued a second show cause notice and the petitioner has submitted his explanation. Since the explanation was not satisfactory, the Enquiry Officer was appointed. The petitioner requested that before starting regular enquiry, to send the above handwriting to Forensic Handwriting Expert to find out the real person who has done the correction. The said plea was not accepted by the respondents. However, some of the documents were served to the petitioner. Since the explanation was not satisfactory, the Enquiry Officer has held that the charges were proved. Thereafter, the disciplinary authority has issued the second show cause notice for the punishment of "reduction of pay by one stage for a period of one year with effect from 01.02.2016 and it was further directed that the petitioner will not earn increments of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing future increments of pay." According to the petitioner, the punishment imposed is on disproportionate. Therefore, the petitioner prayed to quash the impugned order. The petitioner has preferred an appeal and the same was dismissed and the review application was also dismissed. Aggrieved over the same, the present writ petition is filed.

3. The respondents have filed a counter affidavit and the typed set of papers stating that the evidence adduced by the delinquent during the departmental enquiry clearly pointed out that the aforesaid tampering in the mess Caution money register was done by the petitioner himself. The claim of the petitioner to send for Forensic Handwriting Expert was rejected since in domestic enquiry preponderance of probability is sufficient. On enquiry it was held that the petitioner has rewritten and the said S.P. Nayak died after two months after the entry, which would prove the clear intention to take the money and prayed to dismiss the writ petition.



4. Heard Mr.K.Vadivelu, learned Counsel appearing for the petitioner and Mr.C.Nandagopal, learned Standing Counsel appearing for the respondents.

5. The respondents was directed to produce the original documents and the same was placed before this Court. On perusing the original documents, it is seen that fluid is applied and some overwriting in the Register. The name of Nayak was removed by someone and the petitioner's name has been re-written. But it is not proved that the petitioner has applied whitener and he has re-written his name. Since because the petitioner's name appears in the Register, the respondents have come to the conclusion that the petitioner has written his name because he would be the beneficiary, since the said Nayak died after two months.

6. The petitioner has circulated a typed set of papers wherein he has enclosed the certificate awarding cash reward for the hard-work and sincerity in his mess duty. Therefore, the petitioner's claim is that he has no intention to do such thing. The contention of the petitioner is that he has not re-write the name. Since the petitioner's name appears in the register, the respondents are of the opinion that the petitioner would have rewritten his name. Since there is no conclusive proof that the petitioner has re-written his name. Moreover, there is no expert's opinion on this and the petitioner claim for Forensic Handwriting Expert opinion was rejected by the respondents. This Court is of the considered opinion that there is no proof to pin point that the petitioner has done the name change. Therefore, the petitioner is entitled to some relief. Therefore, this Court is of the considered opinion that the punishment is disproportionate. Therefore, the punishment is modified as stoppage of increment for one year without cumulative effect. The impugned punishment is set aside and the respondents are directed to implement this modified punishment within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS I)

// 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,
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Minister of Home Affairs,
New Delhi.
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+1 CC to M/s.M.MOHAMED IBRAHIM, Advocate (SR-12396[F] dated
16/03/2022)

W.P. (MD) No.23868 of 2016
15.03.2022

MGJ(01.04.2022) 4P 7C