

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.1311/2022

Sachin V Central Industrial Security Force and others

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Mrs. Smita Dashputre, Adv for petitioner.
 Mrs. Mugdha Chandurkar, Adv for respondents.

**CORAM : AVINASH G GHAROTE &
 M.W. CHANDWANI, JJ.**

DATE : 08-08-2023

The petitioner who was terminated on 29-08-2016, had filed a revision u/s 9(2)A of the Central Industrial Security Force Act, 1968 (for short, 'CISF Act') in which by an order dated 15-07-2020 termination/removal from service of the petitioner was set aside and the same was modified by imposing a punishment of reduction of pay to the minimum stage in the pay matrix level-3 for a period of three years and so also with a direction that the petitioner will not earn increments of pay during the period of reduction and that on expiry of reduction, the effect of postponing his future increments of pay (page 116). In addition to the same, proposal for treating the intervening period from service to reinstatement was proposed to be treated as "dies-non" and the petitioner was granted an opportunity to make representation against the proposal after joining the duties within a period of one month. Thereafter, a show cause notice was issued to the petitioner, which was replied and after affording an opportunity of hearing a punishment of dies-non under Rule 55 of the CISF Rule, 2001 came to be imposed upon the petitioner in

addition to the punishments already imposed as indicated above, by the order dated 21-3-2020 (pg 267)

2. It is contented that once the appellate authority had imposed the punishment of reduction of pay to the minimum stage in the pay matrix level-3 for a period of three years and non earning of increments as indicated above, it was not permissible for the appellate authority to propose the punishment of non-dies. It is also contended that for these reasons also the revising authority could not have done so. An additional ground is raised that the order dated 21-03-2020 (pg 267) which imposed the punishment of non-dies is without any reason whatsoever.

3. Mrs, Chandurkar, learned counsel for respondent supports the impugned order and submits that there is no prohibition or bar in the statute or the Rule in imposing the punishment of non-dies, even if a lesser punishment is imposed by setting aside the order of termination of service and reinstating the petitioner. She, therefore, submits that the impugned order does not need any interference.

4. Rule 55 of the CISF Rule 2001 reads as under :-

55. Dies-non- Notwithstanding anything contained in these rules a disciplinary authority while passing final order to impose a penalty upon an enrolled member of the Force or an appellate authority or a revising authority may; on reinstatement of an enrolled member of the Force in service after setting aside a penalty of dismissal, removal or compulsory retirement without exonerating such enrolled member of the Force of the charges which resulted in any of these penalties, after giving an opportunity to the enrolled member of the Force concerned to show cause against such

action and for reason to be recorded in writing, order that the intervening period between the date of dismissal, removal or compulsory retirement, as that case may be, and the date of reinstatement be treated as dies-non for purposes of service.”

5. A perusal of the language of Rule 55 would indicate that it would be an additional imposition, than the penalty imposed upon a delinquent while directing reinstatement and the same has necessarily to be done for the reasons to be recorded in writing. A perusal of the impugned order dated 21-3-2020 (pg 267) would indicate that there is absolutely no reason forthcoming in the said order to explain as to why the said penalty is being imposed. In that view of the matter, the impugned order dated 21-3-2020 cannot be sustained and is hereby quashed and set aside. The matter is remitted to the respondent no. 3, to rehear the parties and pass a reasoned order.

6. The petition is partly allowed in the above terms.

7. The parties shall appear respondent no.3 on 21-08-2023 and no separate notice for the same shall be necessary.

JUDGE

JUDGE

Deshmukh