



W.P.No.13143 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Writ Petition No.13143 of 2013

Mr.S.Vadivelu

... Petitioner

-Vs-

1. The Union of India,
Rep. by the Secretary,
Ministry of Home, New Delhi.
2. The Director General,
Central Industrial Security Force,
CISF Headquarters,
Block No.13, CGO Complex,
Lodhi Road, New Delhi.
3. The Inspector General,
CISF Southern Sector,
Chennai Port Trust Complex,
Chennai.
4. The Deputy Inspector General,
CISF South Zone,
D-Block, Rajaji Bhavan,
Besant Nagar, Chennai – 600 090.
5. The Commandant,
CISF Unit, VOCPT, Tuticorin.

... Respondents



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2. The case of the petitioner is that he was working as a Barber in Central Industrial Security Force [in short, 'CISF']. He had joined service on 28.06.1991 and had been posted at CISF Unit, VOCPT from August, 2009.

3. On 26.11.2011, the Commandant, CISF Unit, VOCPT issued a charge memo under Rule 36 of the CISF Employees' Rules stating as follows:

“(i) While going for duty to CISF Unit at Salem after being relieved from Tuticorin, the petitioner and few others, who accompanied him under the leadership of one Ammasi used unparliamentary language against the co-civilians. Apart from that, they assaulted the Traveling Ticket Inspector and prevented the train from leaving from the station for about 15 minutes. It was alleged that this incident took place between Tirumangalam and Thiruparankundram.

(ii) The second charge was that the petitioner had applied for leave for 20 days and submitted the same to the company commander. The company commander was not inclined to grant 20 days leave and



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therefore, the petitioner abused him stating as follows:

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“Dena hai toh 20 din chutti doh nahin toh mera leave application form wapas doh, meh janta hum kaise chutti lena hai.”

(iii) The third charge was that, he had suffered 7 previous punishments for his carelessness, negligence of duties, violation of orders etc., and that despite several opportunities had been granted to him, he did not mend his ways. The charges specifically allege incorrigible attitude and the petitioner had become a defaulter.”

4. On 28.11.2011, the petitioner acknowledged his service of charges and submitted an explanation on 07.12.2011 denying all the charges. Consequent to the denial, the Assistant Commandant, CISF Unit, VOCPT, Tuticorin was appointed as an Enquiry Officer on 16.12.2011. Later on, Enquiry Officer was changed due to regular transfers. Disciplinary Enquiry was conducted as per the CISF Rules and Regulations and a report was submitted on 08.03.2012 finding that the charges had been proved. A copy of the enquiry report was given to the petitioner and he was called upon to give his explanation. The petitioner submitted his explanation on 15.03.2012. The Disciplinary Authority



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after evaluating the materials, records and evidences before him took a view that it was a case where the petitioner must be given compulsory retirement from service with full pension and gratuity benefits.

5. Challenging this order, the petitioner filed an appeal before the Deputy Inspector General, South Zone. The said appeal was rejected by a speaking order on 11.06.2012. Aggrieved by the order of the Original as well as the Appellate Authority, a revision was preferred to the third respondent. The Revisional Authority, after going through the records, found that the order passed by the original as well as the appellate authority are in accordance with law and dismissed the same. Challenging the orders of the original, appellate and revisional authority, the present writ petition has been filed.

6. Mr.T.N.Sugesh, learned counsel appearing for the petitioner would submit that it was the leader of the company Mr.Ammasi, who had indulged in drunken behaviour and assaulted the Traveling Ticket Examiner and used abuse language against the co-civilian passengers. He would state that the petitioner very politely asked for return the leave



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letter on its refused. Unfortunately these facts cannot be appreciated by any of the authorities. He would further plead that the punishment is disproportionate to the charges alleged to have been proved and would plead for allowing of the writ petition and for reinstatement of service.

7. Mr.T.L.Thirumalaisamy, learned Central Government Standing Counsel for the respondent would submit that the Original, Appellate and the Revisional Authority had appreciated the evidence and had come to the correct conclusion. He would further state that a lenient view was taken considering the long service of the petitioner and he was allowed to compulsory retirement with full pensionary benefits and gratuity. He would plead for dismissal of the writ petition.

8. I have carefully considered the arguments made by either side.

9. On the first submission of the learned counsel for the petitioner that there is no statement that was made by the Traveling Ticket Examiner against the petitioner, it is relevant to read the evidence of Mr.D. Devasahayam[P.W.6], Head Train Examiner, who was the earlier



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Traveling Ticket Examiner attached to the Madurai squad. A reading of the evidence would show that the members of the CISF, who were traveling in the unreserved compartment, were in intoxicated condition and his attention was drawn to the said compartment on the complaint made by the co-passengers. They had complained that the CISF personnel were aggressive. He would also state that in the intoxicated condition, they abused the co-civilian passengers as well as himself. This constrained the public to stop the train by pulling the chain at the Madurai Junction.

10. The Travelling Ticket Examiner as well as the RPF and Railway police confronted the CISF personnel, who were occupying the unreserved compartment and immediately the CISF party incharge apologized for the incident. On the basis of the said incident, the said Traveling Ticket Inspector had lodged a complaint with the Chief Inspector at Madurai. Immediately, enquiry was conducted by the CISF, Inspector Mr.Ajish Kumar, who recorded the statement.

11. It is pertinent to note that the said P.W.6 was cross-examined by Vadivelu. The said P.W.6 not only identified his earlier statement but



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also confirmed the evidence in Ex.P3 and Ex.P6. In addition, he stood by his version and specifically stated that the CISF persons, who travelled in train No.16731 on 03.10.2011 were responsible for the incident. Learned counsel for the petitioner would state that no specific statement has been made against the petitioner. The evidence of PW-6 would go to show that due to the bad behavior of the CISF personnel, the train got delayed for 15 minutes and he had heard the unparliamentary language used by the CISF personnel. The evidence let in before the Enquiry Officer had been appreciated by the Original as well as the Appellate and Revisional Authority. Sitting under Article 226 of the Constitution of India, I am not in a position to re-appreciate the evidence.

12. Insofar as the second charge is concerned, there has been cogent evidence let in by P.W.8 viz., Head Constable Mr.P.Vimalesh that the petitioner had used the aforesaid language against the company commander.

13. Mr.T.N.Sugesh, learned counsel for the petitioner would submit that reading of the words would go to show that the petitioner



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only wanted his leave letter to be returned and nothing else. I have extracted the portion in Hindi, if it is translated, it would mean

“If you want, give me 20 days holidays otherwise you return my application form, I know how to take holidays.”

14. The contents used by the petitioner should not be used before the higher officials, when all of them belong to an Uniformed Service i.e., CISF. CISF has been given onerous responsibility of protecting important institutions.

15. A constable, who is discharging his duties, is expected to obey the higher officers. If I accept the plea of the petitioner, it would not be in the interest of an uniformed force. It will be detrimental to the discipline, that is required, in such a force. Therefore, I am not inclined to accept the submissions of the learned counsel for the petitioner.

16. I have extracted the evidence only in order to satisfy myself and not with an intention to re-appreciate the evidence.

17. Qua the last submission is regarding the punishment. A lenient view has been taken by the Original Authority by compulsorily retiring



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the petitioner with full pensionary benefits. This has been confirmed by the Appellate and the Revisional Authority. I do not find any illegality, irregularity or disproportionate punishment imposed on the petitioner.

18. I have to further add that it is not as if that the petitioner had been singled out. The leader of the party Mr.Ammasi, Head Constable, was also charged for drunken behaviour. Mr.T.L.Thirumalaisamy, learned counsel for the respondent would submit that he was also given same punishment for the same act. Therefore, there is no violation of the constitutional duty by the original authority imposing the same punishment on two similarly placed persons. Therefore, I have to come to the conclusion that the writ petitioner does not deserve any consideration and accordingly, the writ petition stands dismissed. No costs. Connected miscellaneous petition is closed.

02.06.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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Ministry of Home, New Delhi.
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V.LAKSHMINARAYANAN, J.
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