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W.P.No.13288 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21..02..2023

Coram

The Honourable **MR.JUSTICE M.S.RAMESH**

Writ Petition No.13288 of 2016

M.Sekhar Reddy,
Force No.943511630,
S/o.M.Narayan Reddy,
Qr.No.PF.109, CISF Complex,
FACT Udyog Manadal Township,
Elore, Ernakulam - 683 501, Kerala.

..... Petitioner

-Versus-

Union of India represented by

1.The Secretary,
Ministry of Home Affairs,
North Block, New Delhi - 110 001.

2.The Deputy Inspector General (South Zone)
Central Industrial Security Force,
South Zone Head Quarters,
Rajaji Bhawan, 'D' Wing,
Besant Nagar, Chennai – 600 090.

3.The Commandant
CISF Unit ChPT, Chennai – 600 009.

4.The Assistant Commandant/Port
Central Industrial Security Force, CISF Unit ,
ChPT (Chennai Port Trust),
Chennai – 600 001.

.... Respondents



W.P.No.13288 of 2016

WEB COPY

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the concerned records relating to the Charge Memorandum No.V-15014/CISF/Chpt (C)/Disc/Min-3/MSR/2014/567 dated 27.02.2014, the Impugned Final Order No. V-15014/CISF/ChPT(C)/Disc/Min-3/MSR/2014/1771 dated 15.03.2014 both passed by the fourth respondent and the Impugned Appellate Order No.V-15014/Disc/Min/Appeal-01/AK/2014/4114 dated 24.05.2014 passed by the third respondent and the Impugned Revision Order V-11014(1)/Rev/68/MSR/Disc/SZ/2015/571 dated 21.01.2015 passed by the second respondent and to quash the same and to direct the respondents to refund the amount recovered from the petitioner as penalty of “Pay Fine equivalent to Seven Days Pay” with interest @ 18% p.a. and to impose costs.

For Petitioner(s) : Mr.S.Ramaswamy Rajarajan

*For Respondent(s) : Mr.V.Balasubramanian for R1
No appearance for RR 2 and 3*

ORDER

The charge against the petitioner under the impugned charge memo dated 27.02.2014 was that when a raid was conducted by a Vigilance Team, a sum of Rs.160/- was found within 30 – 40 meters



W.P.No.13288 of 2016

from the duty post of the petitioner. Based on this levelled charge, the petitioner had rendered his explanation on 07.03.2014. Not being satisfied with the reasoning in his reply, by order dated 15.03.2014, the disciplinary authority had imposed a punishment of 'pay fine equivalent to seven days pay'. The appeal preferred by the petitioner was also rejected by the appellate authority by order dated 24.05.2014. Subsequent revision was again rejected on 21.01.2015. Challenging the orders of punishment as well as the orders of the appellate authority and the revisional authority, the present writ petition has been filed.

2. The learned counsel for the petitioner predominantly raised three grounds that (i) the personnel to conduct search is only the Gazetted Officer / Coy. Commander and In-charge Criminal Investigation Wing, whereas the Inspector / Executive has conducted the search in the present case; (ii) the petitioner was posted only in the out Gate where a cash of Rs.160/- was found, whereas in the order of punishment, the amount was said to have been found at the in Gate; and (iii) that the charge is very vague since it speaks about the violation of lawful order without quoting as to which order was violated.



W.P.No.13288 of 2016

3. Per contra, the learned counsel for the respondent submitted that

the Inspector / Executive is a personnel authorised to conduct search.

Furthermore, when the amount of Rs.160/- was found in the vicinity where the search was conducted, the charge against the petitioner would be maintainable since he was posted 30 – 40 meters close to the place from which the amount was seized. Insofar as the vagueness of the charge is concerned, the learned counsel for the petitioner submitted that the charge memo itself indicates that it was the orders of the superior that was followed.

4. As pointed out by the learned counsel for the respondents, as per the Officer Orders of the Deputy Inspector General of CISF, dated 24.09.2013, the Inspector / Executive is authorised for performing vigilance duties. Thus, the first ground raised by the learned counsel for the petitioner, questioning the authority of the Inspector / Executive in conducting the search, cannot be sustained.

5. Insofar as the posting of the petitioner at the time when the search was conducted is concerned, charge itself is clear to the effect that the money was found hardly 30 – 40 meters from the duty post of the



W.P.No.13288 of 2016

petitioner. When such amounts are found in the vicinity where a constable is posted, the needle of suspicion could only point at the concerned constable. Thus, the second ground raised by the petitioner does not require consideration.

6. Insofar as the last ground of vagueness is concerned, the article of charge clearly states that since the amount was found 30 – 40 meters distance from the petitioner's duty post, he had failed to keep strict vigil on the area of his responsibility and thereby tarnished the image of his post and violated the orders of the superior authority. Though the article of charge does not refer to which lawful order of the superior authority was not followed, such non mentioning of the lawful order may not be considered to be vague since the petitioner has always had an opportunity to give an effective reply to the first two counts whereby the amount was found in the vicinity of his duty post. Thus, the ground of vagueness also does not gain significance.

In the light of the observations and findings made above, I do not find any infirmity in the order of punishment which according to this court is proportionate to the levelled charges. This writ petition stands



W.P.No.13288 of 2016

dismissed accordingly. No costs.

WEB COPY

21..02..2023

Index : yes / no
Neutral Citation : yes / no
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To

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Central Industrial Security Force,
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M.S.RAMESH.J.,

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W.P.No.13288 of 2016

21..02..2023