



W.P.No.3729 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:22.06.2023

Delivered on: 21.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.3729 of 2019

&

W.M.P.No.4123 and 427 of 2019

O.Ganesan

...Petitioner

Vs

1. The Director General
Central Industrial Security Force
Lodhi Road CGO Complex New Delhi
- 2 The Inspector General
CISF South Sector HQrs Chennai - 600009
- 3 Office of the Dy.Inspector General, CISF SZ HQrs
Block D Rajaji Bhavan,
Besant Nagar, Chennai - 600090
4. Office of the Group Commandant, CISF
Block D Rajaji Bhavan,
Besant Nagar, Chennai - 600090
5. The Assistant Commandant
CISF Unit RGN Sriperumbudur
Chennai

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus Call for the records and quash the order passed by the 2nd respondent dated 12. 09.2018 through its Letter No. V-15014/CISF/SS/L&R/ Rev/ OG/ 19/ 2018-7612 confirming the order of the 3rd respondent vide appellate order No. 11014(1)/ APL-04/ OG/ SZ/ L AND R/ 2018/ 3555 dated 09.04.2018 and the order of the 4th respondent in Letter No. V-15014/ GHC/ AD.VI/ Disc/Major-OR/ RGN (S)/ 2018/ 383 dated 09.02.2018 ie. reduction of pay by one stage(in the revised matrix in level-6) from Rs.46,200 to 44,900/- for a period of one year. It is further ordered that during the period of reduction, the petitioner will not earn increments of pay and that on expiry of this period, the reduction will have the effect of postponing his future increments of pay and direct the respondents to pay the deducted amount Rs.1300/- per month and the salary of the petitioner with effect from April 2018 to till the disposal of this Writ Petition.

For Petitioner : Mr.P.Prakash Paul

For Respondents : Mr.K.S.Jeyaganeshan
SPC for R1 to 5



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ORDER

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2. The case of the petitioner is that he was serving as a Head Constable at Rajiv Gandhi Memorial, Sriperumbudur from May 2015, having enrolled in the Central Industrial Security Force (in short CISF) even at the age of 20. On 15.05.2017, a Sub Inspector/EXE had used derogatory words defaming the petitioner causing severe mental torture to him. The petitioner lodged a compliant to the Unit Commander and followed up the same with subsequent reminders. However, the said S.I/EXE was merely admonished and sent off. The said S.I/EXE in order to take revenge on the petitioner for having lodged the said complaint, in turn lodged a complaint against the petitioner in respect of an incident that had occurred when the petitioner was on Turn Leave. The enquiry was conducted and pending enquiry the petitioner was suspended on



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28.09.2017. The charge against the petitioner was that he entered the Unit Mess/Recreation hall and threatened the SI/EXE which was amounting to gross indiscipline, insubordination and misconduct and unbecoming of a member of a discipline force. The petitioner sent a reply to the said charge memo on 26.10.2017 and pleaded 'not guilty'.

3. After elaborate trial, the disciplinary proceedings were concluded by the authority, awarding punishment of a reduction of pay by one stage for a period of one year. Despite an appeal and revision filed by the petitioner, the punishment only came to be confirmed. The said proceedings are under challenge mainly on the grounds that the entire enquiry was in gross violation of Article 311 of the Constitution of India. The eye witness produced by the prosecution was not on duty as per the duty deployment chart and that the disciplinary authority did not furnish or provide the additional documents such as preliminary enquiry report, statement of witnesses, CCTV footage on the date of the alleged occurrence besides other grounds challenging the reasons assigned by the disciplinary authority for awarding the punishment



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which were also confirmed in appeal and revision.

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4. The respondents have filed a counter affidavit stating that the departmental enquiry was duly conducted and all necessary documents were furnished to the petitioner besides, also giving him sufficient time to submit his representation against the enquiry report. The appellate authority as well as the revisional authority have confirmed the order passed by the disciplinary authority on the merits of the matter and therefore no interference is warranted by way of issuance of a Writ.

5. Heard Mr.P.Prakash Paul, the learned counsel for the petitioner and Mr.K.S.Jeyaganeshan, SPC for the respondents 1 to 5.

6. Though the counsel for the petitioner took this Court through the evidence recorded at the enquiry and various questions that were put to the petitioner and the answers in response given by the petitioner, this Court is mindful of the fact that exercising Writ jurisdiction, the scope of interference



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is very limited and merely because a different view is possible, this Court cannot interfere with the orders impugned in this Writ Petition. Time and again the Hon'ble Apex Court has cautioned the Courts exercising Writ jurisdiction that in such matters of departmental enquiries, unless there is perversity writ large on the face of the impugned proceedings or there has been gross violation of principles of natural justice denying a fair and reasonable opportunity to the affected person or where the punishment is grossly disproportionate to the offence, in all other scenarios and circumstances, it would not be open for this court to interfere and set aside or even modify the orders passed in the departmental proceedings. This Court is able to see from the record that there has been elaborate oral examination of parties and the petitioner cannot complain that he was not given a fair opportunity. It is also seen that even regarding the additional documents and clarifications that were sought by the petitioner, the respondents have promptly replied and clarified by written communications. The punishment also is one which does not shock the conscience of the Court, considering that the charge itself is one of insubordination that too in Central Industrial



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Security Force. Moreover, this Court also finds that the appellate authority as well as the revisional authority, have independently applied their minds to the grounds raised by the petitioner. It is also seen that the appellate authority in its order dated 09.04.2018, has independently considered the petitioner's contentions and came to its own conclusion regarding the misconduct alleged and justified the punishment awarded to the petitioner. Even the revisional authority in its order dated 12.09.2018 has addressed each of the concerns of the petitioner and finally concluded that the order of the disciplinary authority as well as the appellate authority does not warrant any interference.

7. This Court sitting in Writ jurisdiction exercising powers under Article 226 of the Constitution of India cannot dwell into factual matters, especially the evidence let in, that too drawing reference to questions and answers during enquiry and reassesses the evidence on record in order to come to a different conclusion. This Court finds that there is no irregularity or illegality committed by the respondents and the petitioner is not justified in complaining of violation of any of his rights under the Constitution of India.



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8. This Court find no merits in the Writ Petition. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

21.07.2023.

Internet:Yes

Index:Yes/No

Neutral Citation:Yes/No

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To

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P.B.BALAJI, J.,
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Pre-delivery order in
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