



W.P.No.19484 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	06.12.2022
PRONOUNCED ON	:	08.03.2023

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.No.19484 of 2011

S.K.Singh,

Constable No.037080154,

CISF, NDRF,

Arakkonam.

... Petitioner

Vs.

- 1.The Director General
Central Industrial Security Force,
CGO Complex,
New Delhi.
2. The Inspector General,
Central Industrial Security Force,
Southern Sector Headquarters,
Chennai.
- 3.The Deputy Inspector General of Police,
Central Industrial Security Force,
NLC Neyveli.



W.P.No.19484 of 2011

4. The Commandant,
Central Industrial Security Force,
NLC Neyveli.

5. The Commandant,
Central Industrial Security Force,
NDRF Battalion, Arakkonam.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 2nd respondent in his order No.V-15014/L & R/SS/Rev/SKS/2008/2907 dated 04.12.2008 confirming the appellate order No.V-11014/NLC/DISC/APPEAL/SKS/2008-3890 dated 28.04.2008 passed by the third respondent, confirming the final order No.V-15014/CISF/NLC/Maj/SKS/2007-12830 dated 28.09.2007 passed by the fourth respondent and quash the same and to direct the respondents to pay all the monetary benefits.

For Petitioner : Mr.R.Thiyagarajan

For RR 1-5 : Mr.M.Soundar Vijay Arulram,
Addl.Central Govt. Standing Counsel

ORDER

The petitioner has filed this writ petition seeking to quash the order passed by the 2nd respondent/Inspector General-CISF, dated 04.12.2008,



W.P.No.19484 of 2011

whereby the 2nd respondent confirmed the order passed by the appellate authority/third respondent dated 28.04.2008 who confirmed the final order dated 28.09.2007 passed by the fourth respondent/Commandant, CISF Unit, NLC Neyveli, who held that the petitioner's pay will be reduced to minimum stage for a period of two years and that he will not earn increment during the period of reduction and that on expiry of this period, the reduction will have the effect of postponing his future increments of pay. The petitioner further seeks for a direction to the respondents to pay all the monetary benefits.

2. It is averred in the writ petition that the petitioner joined as Constable in the Central Industrial Security Force on 19.12.2003 at Jharkand State. After 11 months of training, he was posted at NLC Neyveli with effect from November 2004. Thereafter, the petitioner was transferred to NDRF Battalion under the 5th respondent in the year 2007.

3. The allegation of gross misconduct as against the petitioner is that on 03.06.2007 at about 12:15 hrs, the petitioner indulged in the assault of his senior causing injury to his left eye. Subsequently, the petitioner was issued



W.P.No.19484 of 2011

charge memo dated 09.06.2007 for the alleged incident. For the said charge memo, a detailed written statement of defense was submitted by the petitioner. Not satisfied with the same, the fourth respondent had proceeded with the enquiry by appointing an enquiry officer.

4. The fourth respondent had conducted the enquiry and submitted a report against the petitioner. In reply to the enquiry report of the fourth respondent, the petitioner had submitted a detailed representation on 13.09.2007. The fourth respondent passed the final order on 28.09.2007 awarding the punishment of reduction of pay by minimum stage for a period of two years.

5. Aggrieved against the above order passed by the fourth respondent, the petitioner preferred an appeal before the third respondent, but the same came to be rejected on 28.04.2008. Thereafter, the petitioner preferred a revision petition before the second respondent on 09.07.2008 and the Revisional Authority also rejected the same on 04.12.2008.



W.P.No.19484 of 2011

6. It is the argument of the learned counsel for the petitioner that the injury sustained by the senior officer is not so serious and the petitioner hit accidentally. The disciplinary authority without considering the contentions raised before him, passed the penalty order and as against the same, appeal and revision filed which were also not considered and feeling aggrieved, petitioner filed this writ petition, however, there occurred a delay. The delay is due to the fact that he was transferred to the CISF Unit, 4th NDRF under the fifth respondent, so, he was unable to contact the advocate thereby incurring a delay of two years.

7. Per contra, the learned Additional Central Government Standing Counsel appearing on behalf of the respondents would state that the gross misconduct committed by the petitioner was proved by the Enquiry Officer through the enquiry which was conducted in accordance with law. Moreover the petitioner has preferred the writ petition after a lapse of two years on the order passed in the revision petition on 04.12.2008 and has also not given any proper reason for the inordinate delay in preferring the writ petition and therefore, the same deserves to be dismissed on the ground of laches.



W.P.No.19484 of 2011

WEB COPY

8. It is further submitted that the Union of India has not been arrayed as a party respondent in the above writ petition. The Hon'ble Apex Court has held that the writ proceedings against Public Officer of Central Government, if the writ petition is decided in favour of the petitioner, the consequence arising out of the same has to be borne by the Central Government and therefore, the Union of India has to be made a party in such proceedings. According to the learned Additional Central Government Standing Counsel, the petitioner has not impleaded the Union of India as a party respondent and therefore, the same deserves to be dismissed on the ground of non-joinder of necessary party.

9. He further submitted that the enquiry was conducted as per the set procedure and in compliance of principles of natural justice. During the course of enquiry, the petitioner has not objected to any of the procedures followed nor he has complained that he was not provided sufficient opportunity to defend the charges laid against him. Therefore, the allegation that the enquiry officer conducted the enquiry in a biased manner, is without substance.



W.P.No.19484 of 2011

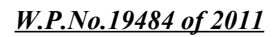
WEB COPY

10. According to learned Additional Central Government Standing Counsel, both the Appellate Authority as well as the Revisional Authority have confirmed the misconduct committed by the petitioner. Therefore, the same does not require interference of this Court and prayed for dismissing the writ petition.

11. Heard both sides and perused the records carefully.

12. The vital compliment of discipline is the recognition and acceptance of a rigid hierarchical structure or chain of command. The petitioner herein is in the uniformed services and the argument of the learned counsel for the petitioner stating that the injuries sustained by the senior officer is not very serious in nature and the petitioner has hit him accidentally, cannot be accepted.

13. In the uniformed service, assaulting a senior without any provocation or any reasonable cause, is a very serious offence and definitely



08.03.2023

1.The Director General
Central Industrial Security Force,
CGO Complex,
New Delhi.

2. The Inspector General,
Central Industrial Security Force,
Southern Sector Headquarters,
Chennai.



WEB COPY



W.P.No.19484 of 2011

3. The Deputy Inspector General of Police,
Central Industrial Security Force,
NLC Neyveli.
4. The Commandant,
Central Industrial Security Force,
NLC Neyveli.
5. The Commandant,
Central Industrial Security Force,
NDRF Battalion, Arakkonam.



WEB COPY



W.P.No.19484 of 2011

J.NISHA BANU, J.,

sts

Order made in
W.P.No.19484 of 2011

Dated:
08.03.2023