



W.P.No.19048 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.19048 of 2013
and M.P.No.1 of 2015

Gaya Prasad

... Petitioner

-Vs-

1. The Union of India,
represented by the Secretary,
Ministry of Home Affairs,
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,
C.I.S.F. Training Sector,
N.I.S.A, Hakimpet,
Hyderabad-500078.
4. The Deputy Inspector General,
C.I.S.F Regional Training Centre,
Suraksha Campus,
Arakkonam, Vellore District.
Pin: 631152.



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5. The Senior Commandant,
C.I.S.F Regional Training Centre,
Suraksha Campus,
Arakkonam, Vellore District.
Pin: 631152.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order to the Impugned Order of the second respondent in No V-14013/25/2012/L&R/287 dated 08.04.2013 confirming the order of the third respondent in No V-11014/TS/Appeal/PKY/2011/1601 dated 29.11.2011 and the order of the fifth respondent herein in No V-15014/CISF/RTC {A}/Disc/Termination/2011/4680 and quash the same and direct the respondents herein to reinstate the petitioner in service with full back-wages, continuity of service and all other attendant benefits.

For Petitioner : Mr.T.N.Sugesh

For Respondents : Mr.J.Madanagopal Rao
CGSPC

ORDER

This Writ Petition has been filed challenging the order passed by the second respondent dated 08.04.2013, thereby confirming the order passed by the third respondent dated 29.11.2011, thereby confirming the order passed by the fifth respondent, thereby terminated the petitioner from his service.



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2. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

3. The petitioner was selected to the post of an Assistant Sub-Inspector in Central Industrial Security Force (CISF) and he was issued with appointment order dated 16.08.2011. As per the appointment order, he joined duty at the Regional Training Centre at Suraksha Campus in Arakkonam on 02.09.2011. He was placed on probation for a period of two years. While being so, he had sought for leave for a period of four days by leave application dated 04.10.2011. However, he was not sanctioned any leave and he continued to perform his duties. Thereafter, he received an order of termination dated 19.10.2011, thereby, he was terminated from his service with immediate effect under Rule 25 of the CISF Rules, 2001. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed and he also preferred revision and the same was also dismissed.



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4. Pending revision, the petitioner approached this Court in W.P.No.1712 of 2012 challenging the order of termination and appeal. This Court disposed of the writ petition, thereby directing the second respondent to dispose of the revision petition, within a stipulated time, as per the observations made by this Court. However, the revisional authority also dismissed the revision.

5. The learned counsel for the petitioner would submit that this Court held that the order of termination was punitive in nature and as such, this Court had specifically directed the revisional authority to consider the petitioner's revision in lieu of the observations made by this Court. Though the petitioner made an application for leave, it was not considered and he was not granted leave. Therefore, the petitioner did not commit any misconduct and unfortunately, he was terminated from service.

6. The fifth respondent did not conduct any enquiry and straightaway terminated the petitioner from his service. The petitioner was not given any reasonable opportunity of hearing prior to passing the



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impugned order. The fifth respondent also failed to state any reason for terminating the service of the petitioner by an order dated 19.10.2011. Therefore, the punishment of termination is punitive in nature and it is liable to be set aside. The impugned order also stated that the petitioner had committed misconduct and therefore it is stigmatic in nature and visits the petitioner with civil consequences. The failure to hold any enquiry vitiates the impugned orders in this writ petition.

7. Unfortunately, the appellate authority also without considering the same, mechanically rejected the appeal. He further submitted that this Court categorically observed that the order of termination passed by the fifth respondent is with the allegation of misconduct. However, the respondents failed to follow the rules as contemplated under Rule 10 of CISF Rules. Therefore, this Court specifically directed the revisional authority to consider the revision in lieu of the observations made by this Court. Except the leave letter submitted by the petitioner, there was no other allegation in relation to discharge of his duty. Therefore, the order of termination is liable to be set aside.



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8. A perusal of the counter filed by the respondents revealed that the petitioner was appointed as an Assistant Sub Inspector in CISF. He was undergoing basic training at the Regional Training Centre, Arakkonam and he was on probation for a period of two years. When he was undergoing basic training, he submitted a leave application annexing the wedding card and availed leave for four days. However, he was denied leave for four days, since he was under probation for a period of two years.

9. The similarly placed person also applied leave for four days along with the petitioner. He also annexed the wedding card of his sister. On verification of both the wedding cards produced by the petitioner and another revealed that both were printed at a printing press by name Vijay Press, Kadhipur. In order to clear the doubts, the petitioner was called for an enquiry and on enquiry, it was found that the wedding card was ordered to be printed only for the sole purpose of creating a false ground to avail leave and the alleged marriage did not really happen. Therefore, the petitioner lost the confidence of the employer in as much as he had submitted a fake wedding card for the purpose of taking four days leave.



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10. Enquiry further revealed that the petitioner and another person proceeded to attend the physical measurement test for the post of Sub Inspector of Police in the Government of Uttar Pradesh. The wedding card submitted by the petitioner and another person raised doubts to the respondents and in order to ascertain the genuineness of the so called wedding arrangements of the petitioner's sister, a preliminary enquiry was conducted which unfolded that the wedding card submitted by them was fake and there was no such marriage proposal initiated for the petitioner's sister.

11. Therefore, the petitioner was subjected for enquiry conducted by the Commander 'F' Company and during the oral enquiry, the petitioner admitted that he had created bogus wedding card for the purpose of getting leave to attend the recruitment/physical measurement test for appointment to the post of Sub-Inspector in the Government of Uttar Pradesh. Therefore, it raised a question on the petitioner about his honesty, integrity and credibility in contriving his service in a Disciplined Force. Therefore, he was terminated from service by the Appointing Authority, as per the prescribed Rules.



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12. It is relevant to extract the provisions under Rule 25 of CISF

Rules as follows:-

“25. Probation - (1) Every member of the Force except those appointed on deputation/absorption, shall be on probation for the period specified in relevant column of the Recruitment Rules:

Provided that in the absence of a specific order of confirmation or a declaration of satisfactory completion of probation, a member of the Force shall be deemed to be on probation:

Provided further that no member of the Force shall ordinarily be kept on probation for more than twice the period prescribed in respective recruitment rules.

(2) If during the period of probation the appointing authority is of the opinion that a member of the Force is not fit for permanent appointment, the appointing authority may discharge him or terminate the services from the Force after issue of notice of one month or after giving one month's pay in lieu of such notice, or revert him to the rank from which he was promoted or repatriate to his parent department as the case may be.

(3) On successful completion of probation by a member of the Force, the appointing authority shall pass an order confirming the member of the Force in the grade in which he joined the Force.”

13. Admittedly, the petitioner was under probation for a period of two years. While he was in probation, he applied for leave annexing the wedding card stating that there was a marriage proposal. It was found to



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be fake and it was produced by the petitioner to avail leave for four days.

Therefore, the fifth respondent conducted a detailed enquiry and the petitioner was subjected for enquiry by Commander 'F' Company. During the enquiry, he categorically admitted that he had created bogus wedding card for the purpose of availing leave to attend the recruitment/physical measurement test for appointment to the post of Sub-Inspector in the Government of Uttar Pradesh. On enquiry, the petitioner was found not fit for the post of Assistant Sub Inspector and as such, after following the Rule 25 of CISF Rules, the petitioner was terminated from service. Further, there is no provision under Rule 25 of CISF Rules to conduct any statutory enquiry to assess the suitability of the petitioner to continue his service. The petitioner had completed just one month basic training and intended to cheat the organization which had hope and faith on the petitioner to become a good Sub-Officer of the Force. The mischievous act on the part of the petitioner during his initial period of probation itself lead to think that he is most unlikely to become a good Sub-Officer of the Force and accordingly, the fifth respondent terminated his service.



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14. Therefore, the appellate authority and revisional authority had rightly confirmed the order of the fifth respondent and this Court finds no infirmity or illegality in the orders passed by the second, third and fifth respondents and this writ petition is devoid of merits and is liable to be dismissed.

15. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

08.08.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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To

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Ministry of Home Affairs,
New Delhi.
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G.K.ILANTHIRAIYAN, J.

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