



WEB COPY



WP.No.19489 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. No.19489 of 2013

B.Anbalagan

....

Petitioner

Vs

1. The Union of India,  
Rep. by the Secretary,  
Ministry of Home Affairs,  
New Delhi.

2. The Director General,  
Central Industrial Security Force,  
CISF Headquarters,  
No.13, CGO Complex,  
Lodhi Road,  
New Delhi.

3. The Inspector General,  
CISF West Zone, CISF Complex Sector 35,  
Karkar, Navi Mumbai 410 210.

4. The Commandant,  
CISF Unit, S.P.M.  
Hoshangabad,  
Madhya Pradesh

....

Respondents

**PRAYER:** Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the second respondent in No.V-11014/21-ViVa Ni/2011/1178 dated 28.04.2011 and the order of the third



WP.No.19489 of 2013

respondent in Order No.V-15012/WZ/10/1640 dated 03.03.2011 confirming the orders of the fourth respondent in No.V-15016/41/Appeal/WZ/10/11911 dated 23.11.2010 and quash the same and direct the respondents to reinstate the petitioner in service with all attendant benefits.

For Petitioner : Mr.T.N.Sugesh

For Respondents : Mr.V.Venkataswamy Babu  
SPC-GOI

### **ORDER**

This Writ Petition has been filed challenging the order passed by second respondent dated 28.04.2011, thereby confirmed the order passed by the third respondent dated 03.03.2011, thereby confirmed the order passed by the fourth respondent dated 23.11.2010, thereby concluded that the charges framed as against the petitioner were proved.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was initially appointed in the Central Industrial Security Force as Sweeper in the month of April 2008. He had undergone training for the period of five months. Thereafter, he was posted at the CISF Unit, SPM at Hoshangabad in Madhya Pradesh. Again he was deputed to Goa. Since his mother was ill and as such he



WP.No.19489 of 2013

had taken leave from 20.09.2008 to 12.10.2008. Thereafter, he failed to join duty. Therefore, he was served with a charge memo consisting of two charges, which reads as follows :

Charge No.1 : Force member No.082220026  
Sweeper B.Anbalagan, CISF Unit, SPM, Hoshangabad was permitted to proceed on emergency leave for 15 days from 20.09.2008 to 12.10.2008 by the appropriate authority. As per the directions given in the Leave Certificate, Force member was expected to report by morning on 13.10.2008. However, he did not report and continued to remain absent from 13.10.2008 without obtaining any permission from the appropriate authority and therefore being a member of the disciplined Force, he has committed an act of indiscipline and dereliction of duty.

Charge 2 : Force member No.082220026  
Sweeper B.Anbalagan, CISF Unit, SPM, Hoshangabad continued to remain absent from 13.10.2008 without due permission and though the Department has sent summons to his address given in the Leave Certificate, he has neither replied to the letters nor has he reported for duty at the unit. Therefore, being a member of the disciplined Force, he has committed an act of indiscipline and disobedience of the orders.

4. The petitioner failed to submit any explanation and as such,



WP.No.19489 of 2013

an Enquiry Officer was appointed and conducted enquiry. The Enquiry Officer found both the charges proved against the petitioner. The enquiry report was served on the petitioner. The enquiry report was challenged by way of appeal before the third respondent. The third respondent rejected the appeal. Aggrieved by the same, the petitioner preferred revision before the second respondent and the same was also dismissed. All the orders passed by the respondents 2 to 4 is challenged in this writ petition. It is clear that all the respondents having office at Madhya Pradesh and New Delhi. Therefore, this Court has no jurisdiction to entertain this writ petition.

5. A perusal of the counter filed by the respondents revealed that the petitioner was overstaying leave and he was not found available at his native place. In fact, he was served with eight notices before appointing an Enquiry Officer. However, he has not responded to the notice served on him. After appointment of the Enquiry Officer, the Enquiry Officer had also sent three notices. On receipt of the same, the petitioner neither submitted any explanation nor appeared before the Enquiry Officer. The enquiry report was sent along with the show cause notice. Aggrieved by the same, the petitioner preferred an appeal.

6. In this regard, it is relevant to rely upon the Judgement



WP.No.19489 of 2013

reported in **2017 4 CTC 507** in the case of **Central Industrial Security**

**Force V. Abrar Ali**, which reads as follows :

*“12. Though we are of the view that the High Court ought not to have interfered with the order passed by the Disciplinary Authority, the penalty of dismissal from service is not commensurate with delinquency. The respondent was found guilty of desertion of the Force for a period of five days and not improving his conduct in spite of imposition of penalties on three occasions earlier. For the above delinquencies, the penalty of dismissal from service is excessive and harsh. In our view, the penalty of compulsory retirement would meet the ends of justice. We are informed by the counsel for the appellants that the respondent is entitled for pension as he has completed 10 years of service. In order to avoid any controversy, we direct that the respondent shall be entitled for notional continuity of service till the date of completion of minimum service required to make him eligible for pension. He will not be entitled for payment of salary and allowances for that period.”*

7. Admittedly, the petitioner was appointed in the office of the fourth respondent and thereafter, he was deputed to Goa. However, he had taken casual leave from 20.09.2008 to 12.10.2008. Thereafter, he



WP.No.19489 of 2013

failed to report to duty and as such, he was served with a charge memo and the Enquiry Officer conducted an enquiry. The Enquiry Officer found all the charges proved against the petitioner. Challenging the enquiry report, the petitioner preferred an appeal before the third respondent, having office at Maharashtra, and the same was dismissed. Aggrieved by the same, the petitioner filed revision before the second respondent, having office at New Delhi, and the same was also dismissed. Therefore, this Court has no jurisdiction to entertain this writ petition and is liable to be dismissed for want of jurisdiction. That apart, the petitioner never reported to duty. Therefore, the unauthorised absence is clearly proved. The Enquiry Officer rightly concluded that both the charges proved. Therefore, the writ petition is devoid of merits.

8. Accordingly, this writ petition stands dismissed. There shall be no order as to costs.

03.08.2023

Index:Yes/No  
Internet:Yes/No  
Lpp

To



WP.No.19489 of 2013

1. The Secretary,  
Union of India,  
Ministry of Home Affairs,  
New Delhi.

2. The Director General,  
Central Industrial Security Force,  
CISF Headquarters,  
No.13, CGO Complex,  
Lodhi Road,  
New Delhi.

3. The Inspector General,  
CISF West Zone, CISF Complex Sector 35,  
Karkar, Navi Mumbai 410 210.

4. The Commandant,  
CISF Unit, S.P.M.  
Hoshangabad,  
Madhya Pradesh

**G.K.ILANTHIRAIYAN,J.**



WEB COPY



WP.No.19489 of 2013

Lpp

W.P. No.19489 of 2013

03.08.2023