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W.P.No.4182 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.4182 of 2012

D.Janaki Raman

... Petitioner

Vs.

1. The Deputy Commissioner,
Central Industrial Security Force, Unit,
CPCL, Manali, Chennai – 600 068.

2. The Group Commandant,
CISF, Group Head Quarters,
Block – D, Rajaji Bhavan,
Besant Nagar, Chennai – 600 090.

3. The Deputy Inspector General,
CISF, South Zone Head Quarters,
Block – D, Rajaji Bhavan,
Besant Nagar, Chennai – 600 090.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the second respondent in his Appellate Order No.V-15014/CISF/GHC/APL/CPCL/DJR/2012/327, dated 18.01.2012 and received by the petitioner on 21.01.2012 confirming the order passed by the first respondent dated 04.11.2011 in his final order No.V-15014/CISF/CPCL/MIN/(10)/DGR/2011/3867 and to quash the same.

For Petitioner

: Mr.A.S.Mujibur Rahman



For Respondents : Mrs.P.J.Anitha

ORDER

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This Writ Petition is filed seeking a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the second respondent in his Appellate Order No.V-15014/CISF/GHC/APL/CPCL/DJR/ 2012/327 dated 18.01.2012 confirming the order passed by the first respondent in final order No.V-15014/CISF/CPCL/MIN(10)/DGR/ 2011/3867 dated 04.11.2011 and to quash the same.

2. While the petitioner was working as Head Constable under the control of the first respondent, disciplinary proceedings were initiated against him by issuing a memorandum of charges dated 13.08.2011, alleging that the petitioner was found sleeping in sitting position on 14.08.2011 at 04:30 hours and the same was noticed by the Checking Officer, Mr.K.Padmakumar. Thus, treating the said action of the petitioner as gross-negligence and carelessness attitude towards his official duties, he was called upon to submit his explanation. The petitioner herein submitted his explanation dated 05.09.2011 stating that his son was undergoing treatment for depression at CMC, Vellore and because of the said condition of his son, the petitioner is



also taking treatment for depression from 16.07.2011 at CMC, Vellore and he is suffering from sleepless nights. The petitioner has also stated that as soon as the Area Checking Officer visited the spot, he had stood up. But the Checking Officer, due to his personal vengeance, made an entry in the beat book of the petitioner stating that he was found sleeping in sitting position. But for the reasons best known, the petitioner has not chosen to deny the allegation of sleeping in sitting position. Thus, in the entire explanation submitted by the petitioner, there is no specific denial of the allegation made against the petitioner.

3. The first respondent, after having taken note of the explanation submitted by the petitioner had appointed an officer to enquire into the case and found that there is no basis for the allegation made by the petitioner against the Area Checking Officer. Thus, the 1st respondent came to the conclusion that the petitioner failed to substantiate the allegation made against the Area Checking Officer and passed the final order dated 04.11.2011, imposing the punishment of payment of fine equivalent of two days. The appeal filed there against was also rejected by the Appellate Authority by an order dated 18.01.2011, confirming the order passed by the



1st respondent.

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4. The only defence that is taken by the petitioner is that the Area Checking Officer, for extraneous reasons, has made entry in the beat book of the petitioner stating that he was found sleeping in sitting position on the ground that the petitioner refused to get certain goods, as instructed by the Area Checking Officer. But in the explanation submitted by the petitioner, he had failed to state when such demand was made by the Area Checking Officer and what are the goods that were required to be brought by the petitioner etc., except making a bald allegation against the Area Checking Officer. Further, as noted by the respondents 1 and 2 in the impugned orders, the petitioner failed to substantiate the said allegation made against the Area Checking Officer.

5. In the absence of petitioner substantiating the said allegation, the respondents 1 and 2 cannot be found fault in passing the impugned orders. Even otherwise, a perusal of the explanation submitted by the petitioner would go to suggest that the petitioner was having sleepless nights because of the depression that he is undergoing and would suggest that the petitioner was sleeping while sitting but he stoop up when the Area Checking Officer



came to the spot.

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6. The contention of the learned counsel for the petitioner is that the respondents failed to furnish a copy of the report of preliminary enquiry conducted by the Inspector and the same is also in violation of Rule 37 of the CISF Rules, 2001. The Rule 37 of the CISF Rules, 2001 reads as under:

“ 37. Procedure for imposing minor penalties -

(1) No order imposing any of minor penalties specified in rule 34 shall be made except after -

(a) informing the enrolled member in writing of the imputations of misconduct or misbehaviour on which it is proposed to be taken and giving him a reasonable opportunity of making such representation as he wishes to make against the proposal;

(b) holding an inquiry, if the disciplinary authority so desires, in the manner laid down in sub-rules (3) to (22) of rule 36;

(c) taking the representation, if any submitted by the enrolled member under clause (a) and the record of inquiry, if any, held under clause (b) into consideration; and

(d) recording the findings on each imputation



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of misconduct or misbehaviour;



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(2) Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case it is proposed after considering the representation, if any, made by the Government servant under clause (a) of that sub-rule to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the Government Servant or to withhold increments of pay for a period exceeding 3 years or to withhold increments of pay with cumulative effect for any period an inquiry shall be held in the manner laid down in sub-rule (3) to (22) of Rule 36 before making any order imposing on the enrolled member of the Force any such penalty.

(3) The records of the proceedings in such cases shall include-

- (i) a copy of the intimation to the enrolled member so charged of the proposal to take action against him;*
- ii) a copy of the statement of imputation of misconduct or misbehaviour delivered to him;*
- (iii) his representation, if any;*
- (iv) the evidence produced during the enquiry, if any;*
- (v) the findings on each imputation of misconduct or misbehaviour; and*



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(vi) the orders on the case together with the reasons therefor.”

7. The above Rule deals with the imposition minor punishment and the procedure that is required to be followed for imposing the minor penalties. There is no mandatory procedure of conducting a detailed enquiry and it is only basing upon the explanation submitted by the delinquent officer, an order can be passed. Therefore, the contention raised by the learned counsel for the petitioner on the ground of non-furnishing of report of the preliminary enquiry cannot be sustained. Further, the petitioner was aged about 57 years as on the date of filing of the Writ Petition in the year 2012 and the punishment that was imposed on him was also trivial in nature and the same was also given effect to. The petitioner must have retired from service long back.

8. In the light of the above, this Court does not find any error or illegality both on the factual as well as jurisdictional aspects. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any, shall stand closed.



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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



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