



W.P.No.4203 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Date of Reserving Order 10.07.2023	Date of Pronouncing Order 18.08.2023
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

WP.No.4203 of 2012

M.A.Rayees,
Constable No.974410025,
CISF Unit,
NLC, Neyveli.

... Petitioner

Vs.

1.Union of India
Rep. by its Secretary to Government
Ministry of Home Affairs
New Delhi

2.Inspector General
Central Industrial Security Force
Southern Sector, Head Quarters
Chennai 600 009

3.The Deputy Inspector General
Central Industrial Security Force Unit
Neyveli Lignite Corporation
Neyveli

4.The Senior Commandant
Central Industrial Security Force Unit
Neyveli Lignite Corporation
Neyveli, Cuddalore District

... Respondents



W.P.No.4203 of 2012

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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records relating to the order passed by the 2nd Respondent dated 31.03.2011 in his order No.V-15014/L&R/SS/Rev/MAR/2011/-178 and confirming the order passed by the 3rd Respondent dated 29.10.2010 in its appellate order No.V-15014/CISF/NLC/Appeal/Disc/MAR/2010/10654 and confirming the order passed by the 4th Respondent dated 03.09.2010 in his Final Order No.V-15014/NLC/Disc/Maj/MAR/2010/8678 and quash the same.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.T.L.Thirumalaisamy (for R1 to R4)
Central Government Standing Counsel

O R D E R

The Petition has been filed to call for the records relating to the order passed by the 2nd Respondent dated 31.03.2011 in his order No.V-15014/L&R/SS/Rev/MAR/2011/-178 and confirming the order passed by the 3rd Respondent dated 29.10.2010 in its appellate order No.V-15014/CISF/NLC/Appeal/Disc/MAR/2010/10654 and confirming the order passed by the 4th Respondent dated 03.09.2010 in his Final Order No.V-



W.P.No.4203 of 2012

15014/NLC/Disc/Maj/MAR/2010/8678 and quash the same.

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2.The Petitioner is the constable (No.974410025) in CISF Unit working at Neyveli Lignite Corporation, Neyveli. He filed the Writ Petition to quash the order of punishment imposed upon him viz., reduction of pay by one stage for a period of two years, cumulatively.

3.The brief facts of the case is that the Petitioner joined the Central Industrial Security Force as Constable in the year 1997 and he was posted at Neyveli Lignite Corporation unit at Neyveli and was allotted quarters 207-D. One Murugan, who is also a Constable is his neighbour residing in the quarters at 207-B. The Petitioner was issued with a memo on 04.03.2010 for the Article of Charge that he had created nuisance in the family quarters on 11.02.2010.

3(a).The short facts of the Articles of charge issued to the Petitioner are that the Petitioner disturbed the peace and created nuisance in the family quarters area on 11.02.2010 at about 22.15 hrs, in an inebriated condition he beaten up the door of Quarter No.207/B. Hostel Type, Block-22 of



W.P.No.4203 of 2012

No.92452290 Constable K.Murugan, by using filthy language and threatened to kill him and when constable K.Murugan came out from his quarters, he also tried to beat him. On hearing this, Constable N.C.Rao who is residing at first floor at the same block came and tried to pacify him and take him away from that place to his quarters but could not succeed. Meanwhile, constable V.Selvakumar, who was on the way to his quarters after completion of his 'B' shift duty, came there and both of them took constable M.A.Rayees inside his quarters. HC/GD Shivalingaiah and Constable M.K.Swamy have had witnessed the incident. On getting information Insp/Exe R.Balashanmugam, I/C CIW and Insp/Exe. S.Shanmugaiah, Coy Commander 'L' Coy, followed by Constable A.Manikandan, reached the spot and noticed that he was inside his quarters and shouting, abusing at Constable K.Murugan. Then both the Inspectors stood in front of his quarters and introduced themselves and asked him to come out from his quarters in order to sort out his problem and to take him to hospital in case of any need. At this Constable M.A.Rayees started abusing both the Inspectors in a very loud voice without any provocation, which resulted in entry G.D.No.690 at 23.00 hours.



W.P.No.4203 of 2012

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3(b).After detailed written statement of defence and enquiry, the second showcause notice was issued, holding that the articles of charge framed against the Petitioner are substantiated and established and awarded punishment of reduction of pay by one stage for a period of two years, cumulatively. The Appeal and Revision filed by the Petitioner are dismissed and hence the present Writ Petition.

4.Learned counsel for the Petitioner submitted that the representation made by the Petitioner, pursuant to the initial charge as well as second show cause notice are not at all considered. His neighbour Constable K.Murugan, residing at 207-B has provoked the incident and it is a single incident, however, the Petitioner was made to suffer financial loss, due to the personal enmity and the Petitioner was falsely implicated. Learned counsel for the Petitioner seeks the indulgence of this Court to set aside the order of punishment of reduction of pay by one stage for a period of two years, cumulatively.

5.Heard the learned counsel for the Petitioner and the learned counsel for the Respondents.



W.P.No.4203 of 2012

WEB COPY

6.On perusal of the counter affidavit as well as the document filed before this Court, I find that on the allegation that the Petitioner created nuisance in the family quarters area at block No.22 on 11.02.2010, he was dealt with under Rule 36 of CISF Rules, charge memo was issued and the enquiry was conducted, thus resulted in punishment of reduction of pay by one stage for a period of two years, cumulatively.

7.The records produced by the Respondent goes to show that on 11.02.2010 at about 22.15 hours petitioner came to the quarter of Constable K.Murugan and kicked the main door and abused him in unparliamentarily words in an inebriated condition saying that "MATHER CHOOD CRIME KA MURUGAN BAHAR AAJAO", MATHER CHOOD BAHAR AAJAO CRIME KA MURUGAN THUM KG JAAN SE MAAR DAALEGA". The petitioner even tried to assault him. The occupants of the neighboring quarters witnessed the whole episode. Then, Constable K.Murugan informed the matter to Insp/Exe. R.Balashanmugam, I/C CIW and he reached the spot. At about 22.35 hours on 11.02.2010, Insp/Exe S.Shanmugaiah also reached the spot along with



W.P.No.4203 of 2012

Constable A.Manikandan. Then both the Inspectors went to the doorstep of the Petitioner and asked him to come out of the quarters and promised that they would sort out the problem and if required they would take him to Hospital for treatment. On hearing this, the Petitioner started abusing both the Inspectors in loud voice under the influence of alcohol saying that "MATHERCHOOD BAHAR AANESE TUM LOG DHONO INSPECTOR GOS BHANKE AAYA KYA MATHERCHOOD THUM LOG KYA KHAR LEGA THUMARA ZAFARULLA MERE JHAT KO NAHI NIKAL SAKTHA". Then as requested by the wife of the Petitioner, both the Inspectors and others were left with no other alternative but to leave the place. His inebriated condition during the alleged incident on 11.02.2010 was unambiguously established through the corroborated statements of P.W.1, 2, 4, 5,7 and 8. He could have cross examined the PWs in order to prove his innocence but inspite of ample opportunities extended to him, the Petitioner declined to cross examine the PWs except P.W.8, Constable K.Murugan.

8.The Enquiry Officer has given a categorical finding that the charges are established and proved. The Appellate and Revisional authority also concurred



W.P.No.4203 of 2012

the same.

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9.Learned counsel for the Petitioner relying upon the grounds in the Writ Petition contended that the domestic enquiry was conducted in English. During the preliminary enquiry of the Petitioner held on 17.04.2010, the Enquiry Officer asked the Petitioner about which language he prefers, either English or Hindi, for conducting domestic enquiry, the Petitioner appears to have chosen English. Therefore, having opted for proceedings in English, he cannot complain about the same and he is estopped from complaining about his own selection of language in conducting the domestic enquiry.

10.On perusal of the records, I find that PW1 to PW8 were examined. Except PW8 viz., KMurugan (Constable), with regard to other prosecution witnesses, there was no cross examination. In other words, the charged Officer/Petitioner has not chosen to cross examine those independent witnesses and ample opportunity was extended to him. However, it appears that the Petitioner declined to cross examine the prosecution witnesses except PW8 Murugan and hence, I find that the department enquiry conducted by the



W.P.No.4203 of 2012

Enquiry Officer is as per the procedure and without any denial of justice and hence, the enquiry proceedings are held to be fair and proper.

11.The Enquiry Officer has also gone into the statement of witnesses, who are independent witnesses and also taking note of the fact that GD entry was made within few minutes of the occurrence and held that the charges are established and proved and hence I find that the finding rendered by the Enquiry Officer does not call for any interference.

12.The proved delinquency on the part of the Petitioner was a serious misconduct which calls for stringent punishment, since he has caused ruckus, under the influence of alcohol in the family quarters, during the night hours in an inebriated condition. However, considering the length of service put on by the Petitioner and his family burden, it appears that the disciplinary authorities have taken a lenient view, while passing the punishment and hence I find that the penalty imposed by way of punishment is commensurate with proved delinquency and hence it does not call for any interference and accordingly, the Writ Petition is devoid of merits.



W.P.No.4203 of 2012

WEB COPY

13.In fine, this Writ Petition is dismissed. No costs.

18.08.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To

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

2.The Inspector General
Central Industrial Security Force
Southern Sector, Head Quarters
Chennai 600 009

3.The Deputy Inspector General
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4.The Senior Commandant
Central Industrial Security Force Unit
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Neyveli, Cuddalore District



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W.P.No.4203 of 2012

RMT.TEEKAA RAMAN.J,

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Pre-delivery Order made in

WP.No.4203 of 2012

Dated: 18.08.2023