



W.P.No.2665 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.2665 of 2016

N.Eranna

...Petitioner

Vs.

1. The Union of India,
Rep by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.
2. The Director General,
Central Industrial Security Force,
Head Quarters, Block No.13, CGO Complex,
Lodhi Road, New Delhi - 110 003.
3. The Inspector General,
Central Industrial Security Force,
South Sector, Head quarters,
New War Memorial, Chennai - 600 009
4. The Deputy Inspector General,
Central Industrial Security Force,
South Zone Head Quarters,
Rajaji Bhawan, Besant Nagar, Chennai 600 090.
5. The Group Commandant,
Central Industrial Security Force,
Group Head Quarters, Kendriya Bhawan,
CSEZ Post,



W.P.No.2665 of 2016

Cochin, Kerala

6. The Assistant Commandant,
Central Industrial Security Force Unit,
BPCL, Cochin Refinery, Cochin, Kerala
7. The Assistant Commandant/Admin,
Central Industrial Security Force,
South Zone Head Quarters,
Rajaji Bhawan, Besant Nagar,
Chennai 600 090

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 4th respondent in his Order No.V.15099(1)/DE/ Misc/NE. SZ (L&R)/ 2015-7168 dated 26.10.2015 communicated by the 6th respondent by Office Memorandum No.V-15014/ CISF/BPCL/ PA/Disc.2015/2924 dated 5.11.2015 confirming the order of the 5th respondent in his Appellate Order No.V-11014/ GHC/AD-V/APPEAL/ BPCL/NE/2015/5349 dated 4.11.2015 confirming the order of the 6th respondent in his Final Order No.V-15015/ BPCL(KR)/ NE/DISC/ 2015-1861 dated 27.7.2015 and quash the same and direct the respondents to promote the petitioner as Head Constable with effect from 7.4.2015 as per the Promotion cum Posting SZ Head Quarters Chennai S.O. Part-1 No.39/2015 dated 07.04.2015 issued by the 7th respondent and to pay all benefits.

For Petitioner : Mr.A.S.Mujibur Rahman



WEB COPY



W.P.No.2665 of 2016

For Respondents : Mr.T.L.Thirumalaisamy,
Central Government Standing Counsel
for R1 to R7

ORDER

On 12.03.2015, the petitioner was levelled with certain charges under Rule 37 of the Central Industrial Security Force Rules 2001, for an incident that had occurred on 30.10.2014 involving the misconduct of insulting the wife of a co-employee. Pending the charges, the petitioner was promoted to the post of Head Constable on 07.04.2015. Since the petitioner sought for examination of the witnesses during the course of enquiry in connection with the charge memo dated 12.03.2015, the charge memo itself came to be dropped on 22.04.2014 and a fresh charge memo was framed under Rule 37(1) (b) of the Rules. Thereafter, an enquiry was conducted and ultimately, by an order dated 27.07.2015, the disciplinary authority/ 6th respondent had imposed the punishment of withholding of one increment for a period of one year without cumulative effect. The appeal against the order was also rejected by the 4th respondent herein on 04.11.2015. Challenging these orders of punishment, the



W.P.No.2665 of 2016

present writ petition has been filed before this Court.

WEB COPY

2. The learned counsel for the petitioner submitted that since the respondents had dropped the original charge memo dated 12.03.2015, they cannot again try the petitioner for the same delinquency through a second charge memo.

3. The learned Standing counsel appearing for the respondent on the other hand submitted that the petitioner was originally proceeded under Rule 37 (1) (a) of the Rules and since the petitioner wanted an enquiry to be conducted, the charges were altered to 37(1) (b) of the Rules through the second charge memo by dropping the earlier charge memo and therefore, there is no infirmity in the orders passed by the respondent.

4. A perusal of the second charge memo dated 28.04.2015, would reveal that since the petitioner, in his reply to the original charge memo dated 12.03.2015 had sought for examining the witnesses, the charge memo under Rule 37(1) (a), which does not



provide for an inquiry, was dropped and a fresh charge memo under Rule 3(1) (b) of the Rules, which provides for conducting an inquiry, was levelled against him.

5. Rule 37(1) (a) of the Rules deals with disciplinary proceedings for imposition of minor punishments for which an enquiry is not contemplated. Rule 37 (1) (b) deals with holding of an enquiry in cases where the punishment proposed may involve a major penalty. Since, the petitioner had specifically requested for examination of the witnesses during the course of enquiry, which is not the procedure contemplated under Order 37(1) (a), the respondents were right in altering the provision into 37(1) (b) for the purpose of extending an opportunity to the petitioner to examine the witnesses. For such a purpose, they had dropped the earlier charge memo and the reasons for dropping the charges have also been assigned in the second charge memo dated 28.04.2015. I do not find any infirmity in such a procedure adopted by the respondents. As such, the ground raised by the petitioner herein cannot be sustained. Accordingly, this writ petition stands dismissed. No costs.



W.P.No.2665 of 2016

WEB COPY

20.02.2023

rka

Index:Yes/No

Internet:Yes/No

To

1. The Union of India,
Rep by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.
2. The Director General,
Central Industrial Security Force,
Head Quarters, Block No.13, CGO Complex,
Lodhi Road, New Delhi - 110 003.
3. The Inspector General,
Central Industrial Security Force,
South Sector, Head quarters,
New War Memorial, Chennai - 600 009
4. The Deputy Inspector General,
Central Industrial Security Force,
South Zone Head Quarters,
Rajaji Bhawan, Besant Nagar, Chennai 600 090.
5. The Group Commandant,
Central Industrial Security Force,
Group Head Quarters, Kendriya Bhawan,
CSEZ Post,
Cochin, Kerala
6. The Assistant Commandant,
Central Industrial Security Force Unit,
BPCL, Cochin Refinery, Cochin, Kerala
7. The Assistant Commandant/Admin,
Central Industrial Security Force,
South Zone Head Quarters,
Rajaji Bhawan, Besant Nagar,
Chennai 600 090



WEB COPY



W.P.No.2665 of 2016



WEB COPY



W.P.No.2665 of 2016

M.S.RAMESH, J.,

rka

W.P.No.2665 of 2016

20.02.2023