



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.Nos.31582 & 39739 of 2016
and
W.P.No.22509 of 2017

W.P.No.31582 of 2016:-

Jangathe Vinod Maroti

.. Petitioner

Vs.

- 1.The Union of India,
Secretary to Government,
Ministry of Home Affairs,
New Delhi.
- 2.The Director General,
Central Industrial Security Force,
CGO Complex,
Lodhi Road,
New Delhi – 110 003.
- 3.The Inspector General,
Central Industrial Security Force,
Southern Sector, Head Quarters,
Chennai Port Trust Campus,
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 Senior Commandant,
Central Industrial Security Force Unit,
Cochin Port Trust,
Cochin, Kerala State.

.. Respondents

W.P.No.39739 of 2016:-

Shasi Kumar Paswan

.. Petitioner

Vs.

1.The Union of India,
Rep. by Director General,
Central Industrial Security Force,
CGO Complex,
Lodhi Road,
New Delhi – 110 003.

2.The Inspector General,
South Sector, Head Quarters,
Central Industrial Security Force,
Chennai Port Trust Campus,
Near War Memorial
Chennai – 600 009.

3.The Deputy Inspector General,
Central Industrial Security Force,
South Zone, Head Quarters,
Rajaji Bhawan,



Besant Nagar,
Chennai – 600 090.

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4.The Senior Commandant,
Central Industrial Security Force Unit,
Cochin Port Trust,
Cochin – 9,
Kerala.

5.The Assistant Commandant
Central Industrial Security Force,
Cochin Port Trust,
Cochin – 9,
Kerala.

.. Respondents

W.P.No.22509 of 2017:-

Gautam Kumar Chakraborty

.. Petitioner

Vs.

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

2.The Director General,
Central Industrial Security Force,
CGO Complex,
Lodhi Road,
New Delhi – 110 003.

3.The Inspector General,
Central Industrial Security Force,
Southern Sector, Head Quarters,
Chennai Port Trust Campus,
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 Senior Commandant,
Central Industrial Security Force Unit,
Cochin Port Trust,
Cochin, Kerala State.

.. Respondents

Prayer in W.P.No.31582 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 3rd respondent in his Order No.V-15014/ADM-III/SS/Rev/JVM/L&R/2016-7096 dated 21.06.2016 confirming the order of the 6th respondent in his order No.V-11014(1)/35/Appeal-JVM/Disc/SZ/2015/8146 dated 18.12.2015 and confirming the final order passed by the 6th respondent in his Final Order No.V-15014/CPT/Disc/Maj-02/JVM/2015/1189 dated 18.05.2015 and to quash the same and to direct the respondents to take the petitioner into the strength of CISF as ASI/EXE and to pay all benefits.

Prayer in W.P.No.39739 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 2nd respondent dated 22.06.2016 in his Order No.V-15014/ADM-III/SS/Rev/SKP/2016-7129, confirming the order passed by the 3rd



respondent dated 22.12.2015 in his order No.V-11014(1)/32/Appeal-SKP/Disc/SZ/2015/8196 and confirming the order passed by the 4th respondent in final order No.V-15014/CPT/Disc/Maj-03/SKP/2015/1188 dated 18.05.2015 and to quash the same and to direct the respondents to take the petitioner into the strength of CISF as Constable GD and to pay all benefits.

Prayer in W.P.No.22509 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 3rd respondent in his Order No.V-15014/SS/Rev/GKC/01/L&R/2017-769 dated 19.01.2017 confirming the order of the 4th respondent in his order No.V-11014(1)/30/Appeal-GKC/Disc/SZ/2015/8197 dated 22.12.2015 and confirming the final order passed by the 5th respondent in his order No.V-15014/CPT/Disc/Maj-04/GKC/2015/1190 dated 18.05.2015 and to quash the same and to direct the respondents to take the petitioner into the strength of CISF as HC/GD and to pay all benefits.

For Petitioners .. Mr.R.Thiyagarajan, in all WPs.

For Respondents .. Mr.A.Kumaraguru
in W.P.No.31582 of 2016

.. Dr.D.Simon, CGSC
in W.P.No.39739 of 2016

.. Ms.Sunita Kumari, CGSC
in W.P.No.22509 of 2017



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COMMON ORDER

Since arguments were advanced in common in all the three writ petitions, a common order is passed.

2.W.P.No.31582 of 2016 has been filed by Jangathe Vinod Maroti, Assistant Sub-Inspector of Police, CISF Unit, New Mangalore Port Trust [NMPT], Mangalore.

3.W.P.No.22509 of 2017 has been filed by Gautam Kumar Chakraborty, Head Constable / GD, CISF Unit, who was also working at the relevant point of time at NMPT, Mangalore.

4.W.P.No.39739 of 2016 has been filed by Mr.Shasi Kumar Paswan, Constable, who was working at CISF Unit, NMPT, Mangalore, at the relevant point of time.

5.All the three writ petitioners, who were Assistant Sub-Inspector, Head Constable and Constable respectively, were in the shift duty between



5.00 hours in the morning and 13.00 hours in the afternoon, on 09.01.2015 at Silver Jubilee Gate of CISF Unit, NMPT, Mangalore. The petitioner in W.P.No.31582 of 2016, Assistant Sub-Inspector of Police, was in-charge of other two, namely, the Head Constable and Constable. They were all incharge of verifying the documents and permitting the lorries to enter the port trust at Mangalore. They had every authority to also prevent the lorries from entering. This is a very crucial posting, since they are the sole deciding authorities to take a decision to either permit the lorries to enter or not. The lorries enter for loading and unloading purposes and if the lorries are sent away, then to that extent, business is lost to third parties / private parties. Therefore, it is imperative that the lorries are permitted to enter into the port trust.

6.It is on record as seen from the documents and the evidence during the enquiry, that the constable/GD Vijayakumar on 09.01.2015 had received a phone call from his source, in his mobile phone, that in the morning hours on 09.01.2015, at Silver Jubilee Gate, illegal gratification was being received. A video clipping was also forwarded from the source. The said constable, Vijayakumar then transferred the video which contained two



clippings. These two clippings ran to 1 Minute and 49 Seconds and 1 Minute and 50 Seconds respectively. In both, the petitioners herein, particularly, the Head Constable and the Constable were seen demanding bribe of Rs.100/- from every lorry driver and as a matter of fact, the spoken words demanding bribe could also be heard. The handing over of the bribe amount could also be seen. It was also noticed that the bribe amount was handed over to a stranger/civilian. The petitioner in W.P.No.31582 of 2016 / the Assistant Sub-Inspector was in close proximity to the entire happening.

7. Based on the said video clippings, a charge memo had been issued to the three petitioners. There were other three constables also posted nearby and they were called upon to speak for the department.

8. The three petitioners denied the charges of facilitating bribe being demanded from the lorry drivers and collected by the unknown civilian, but the words in the clipping reveal that the constable and the head constable directly uttered the words demanding bribe. The video clippings also showed the Assistant Sub-Inspector standing at close proximity and witnessing the entire activity. During the course of enquiry, the video



clippings had also been shown to the petitioners herein. There is no complaint of any procedural violation during the enquiry proceedings.

9.The main grievance expressed by the learned counsel for the petitioners is that the civilian had not been identified, that he was a stranger and that from the three petitioners, no amounts were recovered by the officials of CISF. A picture of innocence and ignorance of the entire episode is painted by the petitioners herein and they seek indulgence of this Court. It is also stated by the learned Counsel for the petitioners that in the absence of there being concrete evidence that the petitioners were directly or indirectly involved in the collection of such bribe amount from the lorry drivers, which were actually handed over to the civilian/stranger, the punishment of removal from service was a very stringent punishment and some leniency could have been shown. It is also stated that more particularly the lorry drivers were also not examined to determine whether there was actual demand and whether the money had been actually handed over by them to the civilian on demand by the petitioners herein and in the presence of the petitioners as seen in the video clippings.



10.The learned counsel for the petitioners placed strong reliance on a string of orders and judgments, wherein, in instances of demand and acceptance of bribe, the punishment of removal from service has always been avoided and some other stringent punishment had been passed as against delinquent officer.

11.The first order relied upon by the learned counsel for the petitioners is ***W.P.No.22574 of 2001, B.Padmaiah Vs. The Union of India, rep. by the Secretary, Ministry of Home Affairs, New Delhi and five others***. In that particular case, the petitioner therein was charged under Rule 34 of the Central Industrial Security Force Rules, 1969. The specific charge against the petitioner therein was that, when he was in patrolling duty at OTA Plant of MRL, on 18.02.1998, he indulged in illegal gratification and collected money from the supervisor for loading grass at grass loading point. The main arguments advanced by the learned counsel for the petitioner therein had been stated in paragraph No.5 of the order:

“5. Mr.N.G.R.Prasad, learned counsel for the petitioner, after taking us through the enquiry proceedings, the orders of the disciplinary authority, the appellate authority and the revisional authority, submitted that the petitioner was not provided with an adequate opportunity



to put forth his defence before the Enquiry Officer. He further contended that inasmuch as the material witness was not examined, other witnesses being the persons working in CISF, the ultimate conclusion of the Enquiry Officer as well as the disciplinary authority against the petitioner cannot be sustained. According to him, the non-examination of the material witness, viz., Ravichandran, who is the complainant, and non-supply of copy of the report to the Deputy Commandant [Ex.C-1] which was very much relied on by the Enquiry Officer amounts to violation of the principles of natural justice. He also pointed out that in other cases, in respect of similar charges of illegal gratification, the very same respondents had awarded lesser punishment than that of removal from service.”

12.The proceedings during enquiry had been dealt with in paragraph

No.11, which is as follows:

“11. It is also relevant to note that the enquiry records revealed that there is no written complaint by the said Ravichandran. At this juncture, the following questions and answers by P.W.2 Inspector A.P. Velu are relevant.

1. Qn.: Who was the complainant?

Ans: Supervisor of Rajeshwari Contractors.

2. Qn.: How was the complaint lodged?



Ans: By telephone.

3. Qn.: Did the Supervisor of Rajeshwari Contractors give anything in writing regarding the incident?

Ans: Yes, he gave me written complaint.

But, the above statement cannot be accepted as correct, because on the question, Was the complaint a written one?, another witness, by name, S.P. Muthu, answered No. He further mentioned that the complaint in the form of telephone call was received by the Inspector A.P. Velu. In the light of the inconsistent statement and of the fact that there is no written complaint, as observed by the Supreme Court in Hardwari Lals case (cited supra), the evidence of the said Ravichandran is relevant.”

13. It is thus seen that in that particular case, the main grievance expressed was that opportunity was not granted by the enquiry officer and material witnesses were not examined and that the complainant himself was not examined and there was no supply of the copy of the report of the Deputy Commandant, which is relied on by the enquiry officer. Holding that those facts as projected on behalf of the petitioner therein were correct, the Division Bench proceeded to quash the impugned order and directed reinstatement.



14. In the instant case, there is no quarrel that the video clippings had been shown to the petitioners herein and they were also aware of the contents and they had also viewed them and the words that they demanded bribe in their presence was also noted in the video clippings. Therefore, on facts, that particular order is distinguishable.

15. The second judgment relied on by the learned counsel for the petitioners is *W.A.No.2558 of 2018, Union of India rep.by its Secretary, Ministry of Home Affairs, North Block, Central Secretariat, New Delhi – 11011 and others Vs. N. Subramanian*. In that case, a surprise check was conducted on 18.08.2009 and the respondent / writ petitioner was found having amount in excess of the amount declared by him in the diary as per rules. It was held that the amounts were unaccounted. It was therefore presumed that the amount should have been received by way of illegal gratification from the truck drivers, who passed through the check post.

16. As seen from the reduction of the facts, a strong presumption was the basis to allege that the unaccounted money was illegal gratification. A learned Single Judge, who originally heard the writ petition had allowed the



writ petition and quashed the punishment imposed. On facts, it had been held that it was highly improbable that bribe amount would have been received in 50 paise coins. It had also been stated that keeping a minimum sum and wrapping it as a bundle is a customary practice adopted by the drivers of vehicles. It had been stated that small denomination of Re.1/- and 50 paise could not be considered as illegal gratification. That particular view held by the learned Single Judge was affirmed by the Division Bench.

17. Again the facts are distinguishable. Here a specific amount of Rs.100/- per lorry driver had been demanded. It had also been stated by the learned counsel for the petitioners that on any given day, about hundred lorries pass through the gate. This would involve not a small denomination of Rs.100/-, but an amount running into thousands of rupees everyday. Therefore, the ratio laid down in that particular judgment would not be applicable to the facts of this case.

18. The third order relied on by the learned counsel for the petitioners is ***W.P.No.22088 of 2014, E.Kuppusamy Vs. The Union of India, Rep. by its Secretary to Government, Ministry of Home Affairs, North Block,***



Parliamentary House, New Delhi and others. In that case, a penalty of reduction of pay by two stages for a period of three years was questioned. In that particular case, the petitioner was a constable in CISF. A charge memo had been issued alleging that he was found in possession of illegal money of Rs.275/- which was thrown by him on the window platform of K.K.Gate New Mangalore Port Trust and seized by the Inspector on routine checking carried out on the said gate. It was stated that the said act was gross misconduct and violation of lawful order. An enquiry was conducted.

19.A learned Single Judge had found as a fact that the petitioner therein was in possession of Rs.275/- while on duty. Then, the learned Single Judge proceeded to examine whether a major penalty of pay by two stages for a period of three years with cumulative effect would be harsh or not.

20.It was one single instance of possession of Rs.275/- and not an instance of bribe amount being collected of about Rs.100/- everyday continuously from every lorry and the total amount would run into several thousands of rupees. That case being with respect to a single instance of



Rs.275/-, the learned Single Judge had thought that some interference could be done in the nature of punishment imposed.

21. Again the fact are distinguishable from the facts of this case.

22. As a matter of fact, the learned Single Judge also in the same order had dealt with another petitioner D.Mari Gowda who had filed ***W.P.No.22089 of 2014*** and who was also in possession of a sum of Rs.275/- and the learned Single Judge had again reduced the punishment in the order. Again the facts are distinguishable.

23. The learned counsel for the petitioners then relied on the order in ***W.P.No.17263 of 2011, K.S.Thimmaiah Vs. The Group Commandant, CISF Group Head Quarters, Block D, Rajaji Bhavan, Besant Nagar, Chennai – 90***. In that particular case, the petitioner, who was also a constable in the CISF was posted at Salem Steel Plant at Salem and during his shift, when he was checking the gate pass for incoming labourers and frisking outgoing labourers and checking in and out going vehicles, had sold a bicycle to one of the contract labourer in the steel plant for a sum of



Rs.350/-. The purchaser, Arumugam did not give the money of Rs.350/-.

But however, he was found by the petitioner therein, when he was coming out through the truck gate. The petitioner asked the money for the bicycle, which was sold. There was a language problem with one knowing Kannada and the other knowing Tamil and to assist, the help of another Head Constable was sought.

24.The facts are totally distinguishable. Here there is no sale or purchase of bicycle, but a direct payment of bribe money of a sum of Rs.100/- per lorry driver.

25.The contention that the civilian was not examined does not take the petitioners anywhere since, when they were on duty, their first duty was to ensure to prevent any civilian entering near to the entrance of port trust. They should not have permitted such stranger to be there. If that particular person had actually received Rs.100/- on demand made by the petitioners herein in the presence of the Assistant Sub-Inspector, then the image of CISF would have only been lowered in the minds of that particular civilian, who would have gone home laughing after having made substantial money



everyday by standing near in the gate, while the lorry drivers going inside the port trust paid Rs.100/- to him for no reason at all. He had no right to prevent the lorry drivers going inside the port trust. He was not directly involved in verifying the papers of the trucks or truck drivers, but still he gained everyday by a sum of about Rs.10,000/- by collecting Rs.100/- from about hundred lorry drivers. Therefore, the said civilian receiving the money would only prove the misconduct of the petitioners herein, which stand exposed by permitting a third party civilian to collect such money.

26.It is also contended by the learned counsel for the petitioners that the lorry drivers were not examined. If the lorry drivers were to state that they paid money to enter inside the port trust, then their lorries would never be permitted on any future time to enter inside the port trust and therefore, it is only natural that they did not come forward to speak about the same. They were the victims of the entire episode.

27.I hold that the entire episode has put the CISF in a very poor light.



28. It is therefore clear that the respondents had to take necessary action. It is contended on behalf of the respondents that the petitioners had been dismissed from service, but only removed from service.

29. The respondents may not hold any grouse against the petitioners in future. There is no more employer / employee relationship between the petitioners and the respondents. If ever the petitioners seek employment elsewhere, the respondents need not keep this episode as a stigma, but only state that the petitioners, for various reasons, had been removed from service. That alone may be stated and the respondents need not put any impediment on the petitioners getting future employment elsewhere.

30. To that extent alone, an observation can be made by this Court, but certainly, the orders impugned cannot be interfered with.

31. Accordingly, these Writ Petitions stand dismissed. No costs.

07.09.2023

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Index: Yes/No
Neutral Citation: Yes/No
Speaking order: Yes/No



To

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Ministry of Home Affairs,
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C.V.KARTHIKEYAN,J.

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