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WP.No.32105 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUIMAR

WP.No.32105 of 2022
and W.M.P.No.31536 of 2022

G.Chandru

.. Petitioner

Versus

1.The Director General
CISF, CGO Complex, Lodhi Road
New Delhi

2.The Group Commandant
CISF, Group Head Quarters
Rajaji Bhawan, Besant Nagar
Chennai

3.The Deputy Commandant
CISF Unit
CISF Manali, Chennai – 600 068

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 02.02.2022 in Reference No.E-42099/CISF/CPCL/PA/CC/O.M/2022/657 passed by the 3rd respondent, quash the same and directing the 1st respondent to pay the arrears of salary from January 2013 to May 2019.

For Petitioner : Mr.M.T.Arunan

For Respondents : Mr.R.Rajesh Vivekanandan for R1 to R3
Deputy Solicitor General



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ORDER

This Writ Petition has been filed challenging the order passed by the third respondent in Reference No.E-42099/CISF/CPCL/PA/CC/O.M/2022/657 dated 02.02.2022, quash the same and consequently, direct the 1st respondent to pay the arrears of salary from January 2013 to May 2019.

2. It is the case of the writ petitioner that he has been appointed as CISF Constable on 14.04.2023 for 8 months till December 2012. Thereafter, he was terminated in the month of December, 2012. He filed a writ petition in W.P.No.38098 of 2012 challenging the termination order before the High Court of Andhra Pradesh. Based on the writ petition order, he has been reinstated in the year 2019. However, the period of which the petitioner has not worked be treated as continuous work along with notional increments and further, he is not entitled to backwages. Challenging the said order, this writ petition is filed before this Court.

3. It is the contention of the learned counsel for the petitioner that he has been terminated merely on the ground that the petitioner is involved in the previous case. However, the case has been ended in acquittal. Only because of the mistake committed by the respondent, termination order came to be passed.

Therefore, it is the contention of the petitioner that once the termination passed



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by the respondent is found to be bad, he is certainly entitled to backwages also.

Further, he also placed reliance in the case of *Mr.I.K.Manikandan Vs. The Chairman, University Grant Commission* made in *W.P.No.32817 of 2012* dated *08.03.2019*.

4. It is the contention of the learned counsel for the respondent that on the basis of the representation given by the petitioner, he has been given reappointment, however, no backwages has been paid. However, the said period is taken for continuity of service along with notional increments. (submissions)

5. Heard both sides and I perused the entire materials placed on record.

6. The petitioner was appointed as CISF constable at CISF, KRTC, Mundali, Odissa during the year 2012. Thereafter, he was terminated by way of disciplinary proceedings on the ground of suppression of involvement of criminal case and his acquittal in the original application. For having wantonly suppressing the involvement of the criminal case, the disciplinary proceedings were initiated against him. The said proceedings terminating the petitioner was challenged before the High Court of Andhra Pradesh in *W.P.No.38098* of



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2012. After consideration of the rival contentions on both sides, the Court has directed the petitioner to submit a fresh representation to the respondents seeking reinstatement into service by duly setting aside the orders of termination and upon such submission the respondents shall consider the same by duly taking into account, the guidelines set out by the Hon'ble Supreme Court in the case of *Avatar Singh Vs. Union of India and others* reported in *AIR 2016 SC 3598*. Based on the above direction and on the representation, the respondent by the order dated 29.04.2019 reinstated the petitioner. Further, the petitioner has made a representation dated 28.09.2021 requesting for payment of arrears of pay, increment and seniority at par with his batchmates, therefore, he filed a writ petition in W.P.No.2387 of 2021 before this Court. This Court, by Order dated 02.11.2021 disposed of the writ petition for considering the representation. Taking cue of the Order dated 02.11.2021, the impugned order came to be passed. The impugned order reads as follows:

“...6. WHEREAS, as per clarification issued by CISF HQrs. New Delhi vide letter No.V-14013/264/2021/SS-27453(E)177 dated 22.01.2022, the intervening period from the date of termination to the date of reinstatement in service (i.e., the period from 24.11.2012 to 17.05.2019) has been regularised without any back wages on the basis of the Principle of “No Work No Pay”. However, the petitioner will have the continuity in service along with notional increments etc., vide CISF Unit CPCL Manali USO Part-II No.11/2022 issued under letter No.(534) dated 28.01.2022. Accordingly, the Petitioner's Basic Pay has been fixed at Rs.29,300/-. He is not entitled for back wages for the period from the date of termination to the date of reinstatement in



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service on the principle of “No Work No Pay”. Further, the bill for arrears of pay and allowance w.e.f. 18.05.2019 to 31.01.2022 has been cleared by RPAO Chennai which was submitted by this office vide bill No.412/Estt./NPS/2021-22(RPAO CP No.00000437) dated 28.01.2022. The petitioner has already been allotted with Seniority No.120989-A at par with his batch mates vide FHQ, New Delhi letter No.E-35016/12/2019/Estt-I/192 dated 21.02.2020. Therefore, the Basic pay and seniority of the petitioner has been fixed at par with his batch mates appointed in CISF during April-2012”

7. A reading of the above makes it clear that the department findings has not been altered by the High Court of Andhra Pradesh. What is directed is to give a representation. Only on such representation, the reinstatement has been ordered. It is not disputed that from the date of termination till the petitioner's reinstatement in service, the petitioner has not worked as a constable. Therefore, the impugned order came to be passed that he is not entitled to back wages. It is relevant to note that disciplinary proceedings has not been set aside the High Court. Only, the representation of the petitioner has been considered and he has been reinstated considering the various guidelines issued by the Hon'ble Apex Court in the case of *Avatar Singh Vs. Union of India and others* reported in *AIR 2016 SC 3598*, since, the alleged offences appears to be minor in nature.

8. Such view of the matter, the person who has not worked for



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continuous 7 years and only he has been given reinstatement taking cue of the guidelines of the Hon'ble Apex Court, the order of the respondent not granting back wages cannot be found fault with.

9. Much emphasize has been made on the Order of this Court in W.P.No. 32817 of 2017, I perused the above Order, wherein, this Court has set aside the termination order on finding that it is clear violation of Principles of Natural Justice, no enquiry whatsoever has been conducted and even no charges has also issued. Taking note of the above situation, this Court has set aside the termination Order and ordered back wages. Therefore, the above Order cannot be applied in the present case. Therefore, I do not find any merits in this case.

10. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No



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N.SATHISH KUMAR, J.



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