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WP.No.15006/2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.08.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.15006/2017

Mohan Singh Thakur

... Petitioner

Versus

- 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,
CGO Complex, Lodhi Road
New Delhi 110 003.
- 3.The Inspector General
Central Industrial Security Force
CISF Campus, Saket,
Malviya Nagar, New Delhi 110 017.
- 4.The Deputy Inspector General
Central Industrial Security Force
CISF Campus, Saket,
Malviya Nagar, New Delhi 110 017.
- 5.The Assistant Commandant



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O/o.The Deputy Inspector General
Central Industrial Security Force Unit
Neyveli Lignite Corporation Ltd
Neyveli, Cuddalore District.

6.The Senior Commandant
Central Industrial Security Force Unit,
Delhi Metro Rail Corporation
Shastri Park, Delhi 110 053.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the 3rd respondent in his Order No.E-42099/NS/ADM/TER/DS/2010/300, dated 14.01.2011 confirming the order of termination dated 02.09.2010 his NO.E-26014/CISF/DMRC[D]/DOC/C&A VER/2010/11378 passed by the 6th respondent and consequential order passed by the 5th respondent dated 22.09.2016 in his order No.V-15014/CISF/NLC/MST/2016/5822 and quash the same and to direct the respondents to treat the period from 06.07.2009 to 03.01.2013 as spent on duty and to pay all monetary benefits.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.K.Srinivasa Murthy
Standing counsel



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ORDER

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- (1) The writ petition has been filed in the nature of a certiorarified mandamus seeking interference with the order passed by the 3rd respondent, Inspector General, Central Industrial Security Force [CISF], New Delhi, dated 14.01.2011, by which, the 3rd respondent had confirmed the order of termination dated 02.09.2010 which was passed by the 6th respondent herein, Senior Commandant, CISF Unit at Delhi Metro Rail Corporation, New Delhi and also the consequential order passed by the 5th respondent, Assistant Commandant, O/o.The Deputy Inspector General, CISF Unit, Neyveli, Cuddalore District, dated 22.09.2016 and quash the same. The petitioner seeks the period between 06.07.2009 and 13.01.2013 to be considered as spent on duty and seeks monetary benefits.
- (2) The petitioner was aged about 29 years at the time of filing of the writ petition in the year 2017. Much earlier, on 06.07.2009, when probably he was around 21 years of age, he had been selected as Constable under the respondents/Central Industrial Security Force. However, while filing up Forms requisite, he had not disclosed about a



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pending criminal case. That particular pending criminal case had been registered in Criminal Case No.24/104/2009 registered under Sections 151, 107 and 116[3] of the Code of Criminal Procedure at City Magistrate, Korba [CS]. However, that a case was registered against him, had been detected by the respondents. It was detected even when he was in the probation period and therefore, the 6th respondent had terminated his services with effect from 02.09.2010. The petitioner had filed an appeal before the 3rd respondent namely, the Inspector General, CISF, at Saket, New Delhi and that was also rejected by an order dated 14.01.2011. Both those orders are being put to test in the present writ petition.

- (3) In the meanwhile, in the year 2013, on 14.01.2013, the petitioner again applied for the post of Constable under the respondents/CISF and after going through the entire selection process, he was selected again as Constable. This only shows his resilience and this Court should place its appreciation for that conduct and character of the petitioner herein. But, probably owing to some advise given after being so selected, he then filed an application seeking continuity of



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service right from the year 2009 when he was originally selected, namely, 06.07.2009 till 13.01.2013 when he was again selected. That request was turned down and rejected by the 5th respondent/Assistant Commandant, O/o.The Deputy Inspector General, Central Industrial Security Force Unit at Neyveli. The selection in the year 2009, came to be terminated in the year 2010. With that, there was a frustration or severance of employer-employee relationship between the petitioner and the respondents. The matter had ended there. There could not be any revival of that particular employment given by the respondents to the petitioner in recognising him to be fit to be selected as Constable. Quite independent of that particular selection process, the petitioner participated in another selection process in the year 2013. By that particular point of time, the criminal case which had been registered against the petitioner, primarily owing to breach of peace by the Executive Magistrate, had been closed since the bond which is executed under those provisions of Code of Criminal Procedure, would be in existence only for a specific period of time. Therefore, after that period of time, since the bond had lapsed, the case would



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naturally come to an end and it stood closed. In the year 2013, when he was selected, there was no further criminal case against him. He has also disclosed about the earlier proceedings which were pending against him.

- (4) Independently, he was tested. He was found medically fit. He was found physically fit and thereafter, he had been selected in the year 2013. This is a different and entirely separate selection process under a different Notification for different number of vacancies and did not relate to the earlier selection process. Therefore, the petitioner can never claim continuity of service from the year 2009 till the year 2013. He should be thankful that the respondents had not held the filing of the criminal case earlier against him to his disadvantage, but had still overlooked that factor and had selected him in the year 2013.
- (5) This Court should also place its appreciation on the respondents for not taking the earlier criminal case as a bar against the petitioner herein and the earlier order of termination also as a bar against him., but, had still thought that he would be of assistance in the Force and had selected him. The petitioner should rest contented with that. It is



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contended on behalf of the respondents by the learned Standing counsel that there cannot be any question of continuity of service since the two selection processes are separate, one independent of the other. There had been a termination after the first selection process and independent of that, the petitioner had applied again and got selected. He was not selected only because he was selected earlier, but because on the date of selection in the year 2013, he was found fit and he was found eligible to be selected. Therefore, the orders of the respondents 6, 5 and 3 which are sought to be impugned in this writ petition, are sustained by this Court and requires no interference. I would only wish the petitioner success in his tenure as Constable and future promotions in the Central Industrial Security Force.

(6) The writ petition stands **dismissed**. No costs.

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Internet : Yes

To

1.The Secretary to Government
Union of India



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

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