



W.P.(MD)No.7439 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.7439 of 2020

and

W.M.P.(MD)No. 6896 of 2020

Paulraj

... Petitioner

Vs.

- 1.The Chief Security Commissioner,
Railway Protection Force,
Southern Railway,
Chennai - 600 003.
- 2.The Divisional Security Commissioner,
Railway Protection Force,
Trichirappalli Division,
Trichy.
- 3.The Divisional Security Commissioner,
Railway Protection Force,
Madurai Division,
Madurai.



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4.The Assistant Security Commissioner,
Railway Protection Force,
Trichirappalli Division,
Trichy.

5.The Inspector of Protection Force,
Railway Protection Force,
Cash Guard and Train Escort,
Trichy Junction,
Trichy.

6.The Inspector of Protection Force,
Railway Protection Force,
Passenger Security,
Madurai Division,
Madurai.

7.S.K.Roy

8.M.F.Mohaideen

9.The Principal Chief Security Commissioner,
Railway Protection Force,
Integral Coach Factory,
Perambur,
Chennai.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records culminated in the impugned order No.SXT/P.227/R.153/I.P/03/2014, dated 11.06.2020 issued by the second respondent herein and quash the same as arbitrary, illegal and against the principles of natural justice and Provisions of Railway Servants (Discipline and Appeal) Rules, 1968 and Railway Protection Force Rules, 1987 and consequently direct the second respondent to reinstate the petitioner in service with all attendant benefits, back wages and all other monetary benefits.

For Petitioner : Mr.Sankar Shanmugam

For Respondents : No Appearance

ORDER

This writ petition has been filed to quash the impugned order No.SXT/P.227/R.153/I.P/03/2014, dated 11.06.2020 issued by the second respondent herein and consequently direct the second respondent to reinstate the petitioner in service with all attendant benefits, back wages and all other monetary benefits.



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2. The learned counsel appearing for the petitioner submitted that the petitioner had joined in Railway Protection Force, Southern Railway as a Constable after successful completion of interview and practical training in the year 2005. During 2012, he was transferred to Train Escort and Cash Guard, Trichy Junction from Central Work Shop, Ponmalai and in the year 2013, he was transferred to the office of Inspector of Protection Force, Railway Protection Force, Cash Guard and Train Escort, Madurai Junction, Madurai. In the year 2014, while he was working under the control of Inspector of Railway Protection Force, Trichy, he was suspended and transferred to Madurai Division and after transfer, the third respondent issued an order directing him to give attendance twice a day at the Office of the sixth respondent. Thereafter, the fourth respondent had issued a charge sheet to the petitioner for major penalty and on the same day, he appointed the seventh respondent as Enquiry Officer and without giving any opportunity to submit his explanation for the charges as per Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968, the impugned order was passed. Aggrieved by the same, the petitioner filed a writ petition in



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W.P(MD) No.16489 of 2014 and this Court by order, dated 30.09.2014

granted an order of interim stay, pending disposal of the above writ petition.

When the interim order of stay, dated 30.09.2014 was in force, the disciplinary authority appointed an Enquiry Officer and the Enquiry Officer has drawn a proven minute and based on the proven minute, the second respondent passed the impugned order, dated 11.06.2020, removing the petitioner from the service without following the provisions of Railway Servants (Discipline and Appeal) Rules, 1968 and Railway Protection Force Rules, 1987. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner further submitted that while the interim order of stay was in force in the above said writ petition, without taking steps to vacating the interim order, they had mechanically passed an order of removal from service, based on the proven minute drawn by the seventh respondent, which is in clear violation of the principles of natural justice and it is a clear disobedience of the order passed by this Court. Accordingly, he prayed for appropriate orders.



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4. Though no one has appeared on behalf of the respondents, however, name was appeared in the cause list and further, the counter-affidavit was also filed.

5. In the counter affidavit filed by the respondents, the fact that V.Selvaraj working as Record Sorter in the office of SR.AFA/Traffic under the influence of alcohol is not true and if so, it would have been mentioned in the Charge sheet issued to the Petitioner. The Petitioner was charged for offence as stated in the Counter. Though the Petitioner was given ample opportunity to disprove the charges, he failed to do so. In para 4 of the charge sheet, the Petitioner has been further charged with the offence that one I.Paulraj has caught hold of his shirt collar and also slapped on his check. The fact that Mr.Selvaraj was sent out of the Office because he was the close relative of the fourth respondent is purely on surmise. The Petitioner should have registered a complaint to the Superior Officers about the misbehaviour of Mr.V.Selvaraj, if any. The fact that the fifth respondent has written in the Station General Diary regarding the assault on Mr.Selvaraj and when it was represented to the fourth respondent, he failed to hear the



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same is not true and that the Petitioner can submit a written representation to the higher authorities and failed to approach the official forum to redress his grievance.

6. It is further stated that on the next day on 16.8.2014, the attempt made by the Petitioner to meet the fourth respondent ended in vain and when he requested the fifth respondent, he shouted on him and marked his presence as Rest in the Attendance Register. This shows the attitude of the Petitioner in his lethargic attitude towards duty. Though the employee was given reasonable opportunity, without waiting for the completion of disciplinary proceedings, he approached the Court for grant of stay of the operation of charge sheet and this shows that the Petitioner is not true to his acts and however, the said Writ Petition in W.P(MD)No.16489 of 2014 was dismissed on 08.12.2020. Further, the employee is misbehaving habitually and the Petitioner had been issued with another charge sheet under Rule 153 of the RPF Rules on 09.09.2014 and the disciplinary authorities have viewed the charges therein as grievous nature and further, they have come to a decision to continue the suspension so that there is better disciplinary



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proceedings following the principles of natural justice. Hence, he prayed for dismissal of the writ petition.

7. Heard the learned counsel for the petitioner and perused the counter-affidavit filed by the respondents.

8. The facts in the present case are not in dispute. Admittedly, the petitioner filed a writ petition challenging the charge-memo issued by the fourth respondent in W.P.(MD) Nos.16489 and 16786 of 2014 and while admitting the writ petition, this Court granted an order of interim stay on 30.09.2014 in W.P.(MD) No.16489 of 2014 and subsequently, while the interim order was in force, the present punishment was imposed by the respondents removing the petitioner from service vide impugned order, dated 11.06.2020, is now under challenge. However, the fact remains that the above said writ petitions are disposed of on 08.12.2020. Subsequent to the impugned order, wherein, the respondents have not disclosed the dismissal order as against the petitioner in the above said writ petitions, since the above writ petitions itself are disposed of only on 08.12.2020.



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Further, this Court also issued a direction to the petitioner to participate in the enquiry proceedings and the respondents are directed to proceed with the enquiry proceedings and conclude the same as expeditiously as possible and pass final orders in the disciplinary proceedings. In the event of any non co-operation on the part of the writ petitioner, the same shall be recorded in the minutes of the proceeding itself. With the above observation, the above said writ petitions are disposed of.

9. However, contrary to the order passed by this Court without disclosing the impugned order by the respondents the writ petitions was disposed of only on 08.12.2020 and prior to that, the present impugned order is passed. Hence, the impugned order passed is in clear violation of the interim order of stay granted by this Court on 30.09.2014.

10. Hence, on the above said ground, this writ petition is allowed and the matter is remanded back to the fourth respondent for conducting the proceedings afresh and the petitioner is directed to co-operate with the enquiry and fourth respondent is directed to conclude the entire disciplinary



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proceedings within a period of 12 weeks from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No

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