



W.P(MD)No.8745 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.8745 of 2018

P.Krishnamurthy

... Petitioner

Vs.

- 1.Union of India,
Rep. by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.
- 2.The Deputy Inspector General/PERS,
Office of the Director General,
Central Industrial Security Force,
Head Quarters, CGO Complex,
Lodhi Road, New Delhi – 110 003.
- 3.The Deputy Inspector General,
Central Industrial Security Force,
South Zone Head Quarters,
Besant Nagar,
Chennai – 600 090.
- 4.The Senior Commandant,
CISF 4th RB, Amaravathipudur, Sivagangai,
Tamil Nadu.
- 5.The Assistant Commandant/Adm,
Central Industrial Security Force Unit,
4th RB, Amaravathipudur, Sivagangai,
Tamil Nadu.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, to call



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for the records relating to the order passed by the second respondent and the order No.E-28014/01/2016/Estt.1/37, dated 29.04.2016 communicated by the fifth respondent in his order No.E-27015/4th RB(S)/PRE-MATURE(R)/DOC/2016/1488, dated 27.05.2016 confirming the order passed by the fourth respondent in his Order No.E-27015/4th RB(S)/PRE-MATURE(R)/DOC/2015/5021, dated 09.12.2015 and quash the same and to direct the respondents to take the petitioner to the strength of Central Industrial Security Force as Head Constable.

For Petitioner :Mr.M.MD.Ibrahim Ali
For Respondents :Mr.K.R.Laxman

ORDER

This writ petition has been filed to quash the order passed by the second respondent and the order No.E-28014/01/2016/Estt.1/37, dated 29.04.2016 communicated by the fifth respondent in his order No.E-27015/4th RB(S)/PRE-MATURE(R)/DOC/2016/1488, dated 27.05.2016 confirming the order passed by the fourth respondent in his Order No.E-27015/4th RB(S)/PRE-MATURE(R)/DOC/2015/5021, dated 09.12.2015 and quash the same and to direct the respondents to take the petitioner to the strength of Central Industrial Security Force as Head Constable.

2. The case of the petitioner is that the petitioner joined as Constable in the Central Industrial Security Force(hereinafter referred to



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as CISF in the year 1985. After having completed the training successfully, the petitioner was posted at CISF Unit and promoted as Head Constable in the year 2006 and thereafter, he was transferred to Sivagangai under the fifth respondent. While being so, the second respondent has passed the impugned order, ordering retirement under Rule 56-(i) of the Fundamental Rules r/w Rule 48 of Central Civil Services (Pension) Rules, 1972. Challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that though the respondents claimed that the petitioner suffered 17 punishments during his service and he is not fit for retention in service, out of those 17 punishments, 16 punishments are minor punishments only and the alleged offences are incidental to the employment of the petitioner. However, citing the punishments, not allowing the petitioner to continue in duty, is not sustainable one and therefore, the impugned order is liable to be set aside.

4. Per contra, the learned standing counsel appearing for the respondents would submit that while the petitioner was serving in CISF



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Unit, Chennai, the Superannuation Review Committee of Chennai, after having considered his case found him 'Not Fit' for further retention in service in public interest on completion of 30 years of qualifying service. Accordingly, the petitioner was relieved from service. Being aggrieved by the premature retirement order, the petitioner has preferred an appeal before Director General, CISF. As per the existing provision, the petitioner should have submitted the appeal to the appropriate authority within three weeks from the date of service of order. As per which, the petitioner has to submit his appeal by 09.01.2016, whereas the petitioner's appeal was received only on 21.01.2016, which is not in time. Further, the service records of the petitioner shows that he has been awarded with seventeen(17) punishments during his entire service. Out of 17 punishments, he had been awarded with one major punishment for indulging in illegal gratification and 16 other punishments for various offences such as absent from duty, disobedience of the orders of his superiors, sleeping on duty, deserted from Unit without leave (AWL), OSL etc. Thus, the Superannuation Review Committee after having considered his entire service found him “Not Fit” for further retention in service in public interest, on completion of 30 years of qualifying service. Thus the plea of the petitioner is untenable and therefore, this



writ petition is liable to be dismissed.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. The undisputed facts are that the petitioner entered into service as Constable in the year 1985 and subsequently, he was promoted as Head Constable in the year 2006 and thereafter, he was transferred to Sivagangai under the fifth respondent. On completion of thirty years of service, order for premature retirement was passed in the case of the petitioner under Rule 56-(i) of the Fundamental Rules r/w Rule 48 of Central Civil Services (Pension) Rules, 1972. Challenging the same, the petitioner has filed this writ petition. However, a perusal of the impugned order makes it clear that during his service, he suffered with seventeen punishments including corruption charges. As rightly stated, the respondent CISF being a Disciplinary Force, the persons working there should be very discipline. When the Authorities decided that the petitioner is not fit for retention, after 30 years of service, the petitioner has no substantial right to claim that he is entitled to continue after thirty years of qualifying service. Therefore, this Court cannot interfere with



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the order passed by the second respondent, which is perfectly in order.

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6.In the result, this Writ Petition is dismissed.

No Costs.

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NCC:Yes/No
Index: Yes/No
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M.DHANDAPANI, J.

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