



W.P.(MD) No.9129 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON : 07.09.2023

ORDERS PRONOUNCED ON : 17.11.2023

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THE HON'BLE MR.JUSTICE BATTU DEVANAND

W.P.(MD) No.9129 of 2018

and

W.M.P.(MD) No.8508 of 2018

R.Karthick

... Petitioner

Vs.

- 1.The Additional Chief Security Commissioner,
Railway Protection Force,
Southern Railway, Moore Market Complex,
Park Town, Chennai-600 003.
- 2.The Divisional Security Commissioner,
Railway Protection Force & Appellate Authority,
Southern Railway, Trichirapalli Junction,
Trichirapalli.
- 3.The Assistant Security Commissioner,
Railway Protection Force &
Disciplinary Authority,
Southern Railway, Trichirapalli Junction,
Trichirapalli.



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4. Enquiry Officer and Inspector,
Railway Protection Force,
Southern Railway,
Train Escort and Cash Guard,
Trichirapalli Junction,
Trichirapalli.

5. The Inspector,
Railway Protection Force,
Southern Railway,
Trichirapalli Junction,
Trichirapalli.

6. The Inspector,
Railway Protection Force,
Southern Railway,
Villupuram.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari, calling for the records culminated in the impugned penalty Advice No.SXT/P.227/R.153/RK/07/2016 dated 27.03.2017 issued by the Disciplinary Authority, 3rd respondent herein and the impugned order No.SXT/P.227/R.153/RK/07/2016 dated 06.06.2017 passed by the Appellate Authority, 2nd respondent herein and quash the same as arbitrary, illegal and against the principles of natural justice and provisions of Railway Servants (Disciplinary and Appeal) Rules 1968.

For Petitioner : Mr.Y.Jacob

For Respondents : Mr.K.R.Laxman



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ORDER

This writ petition is filed to quash the Penalty Advice No.SXT/P.227/R.153/RK/07/2016, dated 27.03.2017 issued by the 3rd respondent and the Order No.SXT/P.227/R.153/RK/07/2016, dated 06.06.2017 passed by the 2nd respondent.

2. Heard Mr.Y.Jacob, learned counsel for the petitioner and Mr.K.R.Laxman, learned counsel appearing for the respondents.

3. Learned counsel for the petitioner submits that the petitioner has joined Railway Protection Force, Southern Railway as a Constable in the year 2006 and is presently working under the control of the Inspector of Railway Protection Force, Southern Railway, Villupuram, the 6th respondent. Prior to that, he was working under the control of the Inspector of Railway Protection Force, Trichirapalli, the 5th respondent herein. After his transfer to Villupuram, the 3rd respondent issued a charge sheet under Rule 153 of the Railway Protection Force Rules, 1987 (hereinafter referred to as “the



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1987 Rules”) framing three charges and stated that the petitioner has violated Rule Nos.145, 146.5, 146.6(i), 146(6)(ii), 146(iii), 146.7(iii) and 147(viii) of the 1987 Rules.

4. Learned counsel for the petitioner submits that the petitioner has put 10 years of service in Railway Protection and the charges now levelled against him in the charge sheet dated 20.07.2016 are that on 28.02.2015, when the petitioner was posted at Tiruchirapalli Junction in “No Parking Area” to prevent unauthorized parking of two wheelers, for 08 Hours to 16 Hours duty, along with one S.Paramasivam, Head Constable, the said Head Constable chained two wheelers which had been parked in the “No Parking Area”. While so, the above said Head Constable, for releasing a two wheeler, bearing Registration No.TN 48S 2019 on the basis of letter/slip given by the Assistant Sub-Inspector of Railway Protection Force, Trichirapalli, demanded and received money from the owner of the said vehicle viz., B.Suresh, which was witnessed by the petitioner. The petitioner has also took a video/audio recording of the above said happenings and erased the same immediately after transferring the above



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recordings to the cell phone of the Assistant Sub-Inspector of Railway Protection Force, Trichirapalli and subsequently turned as hostile witness in the enquiry/disciplinary proceedings held against the above said Head Constable S.Paramasivam violating the 1987 Rules.

5. Learned counsel for the petitioner contends that the 3rd respondent, without following the provisions of Railway Servants (Discipline and Appeal) Rules 1968 (hereinafter referred to as “the Discipline and Appeal Rules”) and the principles of natural justice, issued the charge sheet dated 20.07.2016 framing charges and on the very same day, appointed the 4th respondent as the Enquiry Officer without giving the petitioner reasonable opportunity to submit his explanation for the charges, as per Rule No. 9 of the Discipline and Appeal Rules. That apart, the 3rd respondent without serving the petitioner the relevant documents along with the charge sheet, straight away appointed the Enquiry Officer to enquire into the charges, who also without ensuring that the petitioner was not supplied with the relied upon documents, found the petitioner as guilty of the charges and submitted a report.



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6. Learned counsel for the petitioner further contends that on the basis of the report, the 3rd respondent imposed on the petitioner penalty of withholding of one year increment with cumulative effect *vide* penalty advice dated 27.03.2017. Aggrieved by the same, the petitioner preferred an appeal before the 2nd respondent. The 2nd respondent confirmed the punishment imposed on the petitioner. Hence, the petitioner is before this Court.

7. Learned counsel for the petitioner submits that as per Rules 145 and 146 of the Railway Protection Force Rules, 1987, the petitioner is governed by the Railway Services (Conduct) Rules, 1966 and the Railway Servants (Discipline and Appeal) Rules, 1968 and as such, the issuance of charge sheet, nomination of Enquiry Officer, conduct of enquiry proceedings and imposition of punishment can be done only as per the Discipline and Appeal Rules and sought for allowing the writ petition.



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8. The respondents have filed written submissions.

9. Learned counsel for the respondents submits that disciplinary proceedings was conducted in the manner known to law by giving the petitioner due opportunity and the penalty was imposed as per the provisions of Rule 153 of the 1987 Rules. He relied on the portion of the Statement of Objects and Reasons of the 1987 Rules as extracted hereinunder:

“2. It enables the personnel of the force to be brought under a special set of disciplinary rules. ...”

10. Learned counsel for the respondents contends that the petitioner cannot plead that he can only be dealt under the provisions of the Railway Services (Conduct) Rules, 1966 for the reason that the provision of Rule 145 of the 1987 Rules specifies that the Railway Services (Conduct) Rules, 1966 shall apply to all members of the Force as they apply to railway servants and prays for dismissing the writ petition.



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11. Learned counsel for the respondents further submits that Rule 145 does not by itself exclude the implication of the said rule itself upon the members of the force, wherein the said rules actually expands the parameters/purview/ambit/jurisdiction of the 1987 Rules by including the provisions contemplated under Railway Services (Conduct) Rules, 1966. Mere reading of the Railway Services (Conduct) Rules, 1966 will demonstrate the fact that the said Railway Services (Conduct) Rules, 1966 is a substantiated law, dealing with the manner in which the employees of the Railways have to conduct themselves while they are in the service.

12. Learned counsel for the respondents further submits that Rule 145 was contemplated by stating that the conduct prescribed under Railway Services (Conduct) Rules, 1966 will apply to the members of the Force as it applies to the railway servants, for that reason, Rule 145 of the 1987 Rules, at no point of time, by itself, excludes itself from applying and taking action under the Railway Protection Force Act & Rules made thereunder or exclusively confine all the members to the Railway Services (Conduct) Rules, 1966.



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13. The main contention of the petitioner is that if the respondents intend to initiate disciplinary proceedings against the petitioner, it has to be initiated under the provisions of the Railway Services (Conduct) Rules, 1966 and the Discipline and Appeal Rules as per Rule 145 and Rule 146 of the 1987 Rules.

14. On the other hand, the contention of the respondents is that the provisions of the 1987 Rules are applicable for all members of the Railway Protection Force.

15. For proper adjudication of the issue involved in this case, it is appropriate to look into some relevant provisions of the Railway Protection Force Act, 1957 and the Railway Protection Force Rules, 1987 as extracted hereinunder:

“Section 10 of the Railway Protection Force Act, 1957:

Officers and members of the Force to be deemed to be railway servants.—[Director-General and every member of the Force] shall for purposes be regarded as railway servants within the meaning of the Indian



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Railways Act, 1890 (9 of 1890), other than chapter VI-A thereof, and shall be entitled to exercise the powers conferred on railway servants by or under that Act.”

Rule 145 of the Railway Protection Force Rules, 1987:

Rules governing conduct.—The Railway Services (Conduct) Rules, 1966 as amended from time to time shall, so far as may be, apply to all members of the Force as they apply to Railway servants.

Rule 146 of the Railway Protection Force Rules, 1987:

146. Code of behaviour for members of the Force:

146.1 All members of the Force, irrespective of their ranks, shall submit themselves to the requirement of the following code of behaviour, both on and off duty. It shall be incumbent upon all members of the Force to respect the code of behaviour and of an attitude of complete discipline and maintain to it. Any breach of these provisions on the part of any member of the Force shall constitute misconduct and shall be punishable under the Railway Servants (Discipline and Appeal) Rules, 1968 as applied to superior officers or, as the case may be, under section 9 or section 17.”



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16. On a bare reading of the above extracted provisions, it is clear that the Officers and members of the Railway Protection Force to be deemed to be Railway Servants and the Railway Services (Conduct) Rules, 1966 as amended from time to time shall apply to all members of the Railway Protection Force as they apply to Railway Servants. Rules 146 of the 1987 Rules mandates that it shall be incumbent upon all members of the Force to respect the code of behaviour and of an attitude of complete discipline and maintain to it. It is also made clear that any breach of these provisions on the part of any member of the Force shall constitute mis-conduct and shall be punishable under the Discipline and Appeal Rules.

17. This Court finds force in the contention of the learned counsel for the petitioner that for any misconduct alleged against the petitioner shall be punishable under the Discipline and Appeal Rules and the respondents committed grave irregularity by conducting enquiry and imposing punishment under 1987 Rules. In the light of the clear legal position, this Court is of the opinion that the initiation of enquiry itself under the 1987 Rules is not in accordance with law.



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18. Learned counsel for the respondents has placed reliance on the order dated 14.03.2022 in W.P.(MD) No.21476 of 2015 of this Court. This Court has gone through the same. In our view, it is not helpful in any way to the respondents in the present case, as the facts are different.

19. For the above stated reasons, it is to be held that as per Rule 145 of the Railway Protection Force Rules, 1987, the members of the Railway Protection Force are governed by the Railway Services (Conduct) Rules, 1966 and Railway Servants (Discipline and Appeal) Rules, 1968 and disciplinary proceedings has to be initiated against the members of the Force only under the said Rules. As in the present case the respondents failed to conduct disciplinary proceedings under the relevant Rules, the order impugned in this writ petition is liable to be set aside.

20. Accordingly, this Writ Petition is allowed and the impugned penalty Advice No.SXT/P.227/R.153/RK/07/2016, dated 27.03.2017 issued by the Respondent No.3 and the impugned order No.SXT/P.227/R.



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153/RK/07/2016, dated 06.06.2017 of the Respondent No.2 are here by set aside.

21. There shall be no order as to costs.

22. Consequently, connected miscellaneous petition is closed.

17.11.2023

Note: Issue order copy by 17.11.2023.

NCC : Yes/No

Index : Yes/No

Internet : Yes

abr

To

1.The Additional Chief Security Commissioner,
Railway Protection Force,
Southern Railway, Moore Market Complex,
Park Town, Chennai-600 003.

2.The Divisional Security Commissioner,
Railway Protection Force & Appellate Authority,
Southern Railway, Trichirapalli Junction,
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BATTU DEVANAND, J.

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Pre-delivery Order made in
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17.11.2023