



W.P.(MD)No.21145 of 2017

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 21.02.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P.(MD)No.21145 of 2017**

S. Ravikumar

... Petitioner

**Vs.**

1. The Union of India,  
Represented by its Secretary to Government,  
Ministry of Home Affairs,  
New Delhi.
2. The Director General,  
Central Industrial Security Force,  
Head Quarters,  
CGO Complex,  
Lodhi Road,  
New Delhi – 100 003.
3. The Inspector General,  
Central Industrial Security Force,  
South Sector,  
Near War Memorial,  
Chennai Port Trust Campus,  
Chennai – 600 009.



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4. The Deputy Inspector General,  
Central Industrial Security Force,  
South Zone, Head Quarters,  
Rajaji Bhawan, Besant Nagar,  
Chennai – 600 090.
5. The Senior Commandant,  
Central Industrial Security Force Unit,  
4<sup>th</sup> Reserve Battalion,  
Sivagangai District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, to call for the records relating to the order passed by the 3<sup>rd</sup> respondent, dated 05.04.2017 in his Order No.V-15014/CISF/SS/L&R/Review/SR/09/2017-3755, confirming the order of the 4<sup>th</sup> respondent, dated 21.04.2016 in his order No.V-11014(1)/21/Appeal-PMT-SRK/Disc/SZ/2016/2320, confirming the order passed by the 5<sup>th</sup> respondent in his final order No.V-15014/CISF/4th RB(S)/MAJ 14(11)/SRA/DISC/2016/166, dated 20.01.2016 and quash the same and to direct the respondents to pay all monetary benefits.

For Petitioner : Mr.M.MD.Ibrahim Ali

For Respondents : Mr.G.Rajaraman  
Central Government Standing Counsel



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### **ORDER**

This writ petition is filed challenging the impugned order, dated 20.01.2016, subsequently, confirmed by the Appellate and Tribunal Authorities.

2. Heard Mr.M.MD.Ibrahim Ali, learned counsel appearing for the petitioner and Mr.G.Rajaraman, learned Central Government Standing Counsel, appearing for the respondents. Perused the material documents available on records.

3. The petitioner was appointed as a Constable in the year 1988, subsequently, he was selected to the post of Compounder, with effect from 28.05.1992. Thereafter, vide proceedings, dated 05.06.1996, the post of Compounder was re-designated as Pharmacist and he had completed 23 years of service. When the petitioner was working in the 4<sup>th</sup> Reserve Battalion, Sivagangai, on 26.08.2015 one Mrs.Kiran Yogesh, wife of Constable GD Yogesh Kumar came to consult the Doctor for her Abdominal pain. The said patient has requested to show the feeding room and the petitioner directed to open the door



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of the feeding room. On 30.08.2015, the patient came to the hospital and the petitioner told her that he will drop in her residence. Accepting the same, the said patient along with one Mrs.Lalitha wife of Constable G.D.Durgesh came in the CISF vehicle. The petitioner voluntarily gave his mobile number to the said patient and directed to contact him in case of any emergency. Thereafter, the petitioner had dropped the said Kiran Yogesh. However, there was an allegation against the petitioner that the petitioner's behaviour, way of talking and indulging in unwanted chats which has made the patient to feel uncomfortable. Hence, the said patient has preferred a complaint to the higher officials. Even though, there is no written complaint, based on the oral complaint of the patient's husband, the respondents have initiated an action and issued a charge memo, dated 21.09.2015, under Rule 41 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. Based on the charge memo, the petitioner has submitted his explanation.

4. Thereafter, the respondents have conducted a detailed enquiry and imposed punishment and the same is extracted hereunder:



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*“Reduction of pay by one stage from Rs.17,410/- basic pay + Rs.4800/-Grade pay to Rs.16760/-Basic pay + Rs.4800/-Grade pay in PB of Rs.9300-34800 Plus Grade pay of Rs.4800/- for a period of two (02) years with immediate effect. It is further ordered that he will not earn any increments of pay during the period of reduction and that on expiry of this period, the reduction will have the effect of postponing his future increments of pay to No. 882330596 Pharmacist S.Ravi Kumar of CISF 4<sup>th</sup> RB Sivagangai.”*

Aggrieved over the same, the petitioner has preferred an appeal and the same was also confirmed. Thereafter, a revision petition was filed and the same was also confirmed. Against the same, the present writ petition is filed.

5. The respondents have filed counter narrating the charges and had stated that the petitioner was granted natural justice. The petitioner was granted an adequate opportunity and all necessary documents were furnished and thereafter, taking into consideration of the nature of offence, punishment was imposed and the said punishment was confirmed in appellate proceedings.



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6. The contention that was raised by the petitioner is that the victim has not submitted any written complaint. However, on perusal of the available records, it is seen, even though, written complaint was not submitted, oral complaint was submitted. Based on which, necessary action has been initiated. The victim was directed to give statement during the preliminary enquiry. The first question is,

- (i). Whether the Pharmacist Ravikumar tried to physically get in touch with you during the above narrated incident?

She has answered 'No'.

The second question is,

- (ii). Whether he used any sexually abusing words or signs during the incident apart from the above?

She has answered 'No'. However, she has given an explanation that, his overall behaviour, look, way of talking, especially pressurizing in checking the petitioner at the victims' home was uncomfortable towards dignity of women.

7. The contention of the respondents is that based on the facts and circumstances, the respondents have imposed minimum punishment. However, the petitioner submitted that the respondents have imposed major punishment.



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But the respondents have submitted, it will come under the minimum punishment and relied on the Central Civil Services Rules and submitted that reduction in the time scale of pay for a period of one year not exceeding three years without cumulative effect will come under minor punishment and will not have an adverse effect on the petitioner. In the present case, the respondents have imposed with cumulative effect and the same would affect his further increments, hence it is major punishment only. Therefore, the contention of the respondents that the same is minor punishment is incorrect.

8. Moreover the complainant has stated a categorical “No” for the question whether the petitioner has used sexually abusing words or signs during the incident. In such circumstances the punishment imposed on the petitioner is on the higher side.

9. The petitioner further contented that the respondent had initiated action for the alleged women harassment. But the respondents ought to have constituted complaints committee, but the respondents had initiated action directly without following the procedure. However, the respondents submitted



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that the said Act cannot be invoked since it had happened outside the campus or premises of the work place. This Court is of the considered opinion that the Sexual Harassment of Women at Work Place Act, 2013 can also be invoked. But the respondents have choice to action in any one of the Act and there is no infirmity in taking action under general provisions of CCS (CCA) Rules.

**10.** As far as the punishment is concerned the present impugned punishment would affect the petitioner's pensionary benefits as well. Moreover, as stated supra this Court is of the considered opinion that the punishment is on the higher side and hence this Court is inclined to reduce the punishment. The impugned punishment shall be reduced to reduction of scale of pay for one year without cumulative effect and the same will be appropriate punishment. However, the petitioner is warned, in future if he behaves in such a way, serious action would be initiated. Accordingly, this Court is inclined to modify the punishment as reduction in stage by one increment for one year, however, it will not have impact on future increments. The respondents shall implement this punishment within a period of eight weeks from the date of receipt of the copy of the order.



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**11.** With the above observations, this Writ Petition is allowed. No

Costs.

Index : Yes / No  
Internet : Yes  
ksa

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**S.SRIMATHY, J**

**ksa**

**Order made in  
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