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W.P. No.10200 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P. No.10200 of 2016

Ashok Kumar Yadav
No.833450209, HC/GD
CISF Unit KIOCL
Mangalore

... Petitioner

Vs

- 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
South Sector, Head Quarters
Chennai Port Trust Campus
Near War Memorial, Chennai - 600 009
- 4.The Deputy Inspector General
Central Industrial Security Force
Rajaji Bhawan, Besant Nagar
Chennai - 600 090



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5.The Group Commandant
Central Industrial Security Force
Group Head Quarters
Cochin, Kerala State

6.The Assistant Commandant
Central Industrial Security Force Unit
KIOCL, Mangalore
Karnataka State

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 6th respondent dated 01.09.2015 in his letter No.E-42099/CISF/KIOCL/Dis.Sec./2015/1228 returning the papers relating to the revision submitted to the 3rd respondent dated 27.08.2015 and quash the same and to direct the 3rd respondent to entertain the revision submitted by the petitioner on 27.08.2015 and hear the same on merits.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondent : Mr.P.G.Santhoshkumar
Senior Panel Counsel for R1 to R6

ORDER

This writ petition has been filed to call for the records relating to the order passed by the 6th respondent dated 01.09.2015 in his letter No.E-42099/CISF/KIOCL/Dis.Sec./2015/1228 returning the papers relating to the



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revision submitted to the 3rd respondent dated 27.08.2015, quash the same and to direct the 3rd respondent to entertain the revision submitted by the petitioner on 27.08.2015 and hear the same on merits.

2. The petitioner joined as constable in Central Industrial Security Force in the year 1983 and served all over India. The petitioner was issued with a charge memo under Rule 36 of CISF Rules, 2001 vide letter No.7853 dated 08.12.2014 by the fifth respondent. The petitioner submitted his written defence against the charge memo. As the reply of the petitioner was found to be unsatisfactory, the disciplinary authority, appointed an Enquiry Officer to enquire into the articles of charge. The Enquiry Officer, after completing the enquiry, submitted his report dated 29.01.2015 holding that the charges levelled against the petitioner were proved. The enquiry report was furnished to the petitioner on 07.02.2015 and he submitted his representation to the same on 17.02.2015. The disciplinary authority, vide order dated 04.03.2015, imposed a punishment of reduction of pay to the minimum stage of Rs.9,300/- in the Pay Band-II with Grade Pay Rs.4,200/- for a period of five years, with further direction that during the period of reduction he will not earn any increment and



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on expiry of the period, the reduction will have the effect of postponing his future increment.

3. According to the petitioner, the petitioner due to family problems could not file the appeal within the limitation period to the appellate authority. The petitioner, within the stipulated period of 180 days, preferred a revision before the revisional authority/3rd respondent, but beyond the time provided for appeal. The revisional authority, vide the impugned order dated 01.09.2015, returned the revision petition stating that the petitioner did not adopt the correct procedure and therefore, directed the petitioner to prefer an appeal to the Deputy Inspector General, CISF, Chennai. Aggrieved by the impugned order, the petitioner has filed this writ petition.

4. The respondents filed a detailed counter reiterating the stand taken in the impugned order that the petitioner ought to have exhausted the appellate remedy before filing the revision petition. The respondents stated that no prejudice was caused to the petitioner as he was directed to file the appeal. But instead of filing the appeal, the petitioner approached this Court. The respondents further referred to the merits of the case and the circumstances



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under which the punishment of reduction in pay was imposed. The respondents, therefore, prayed that the writ petition was devoid of merits and the same deserved to be dismissed.

5. The learned counsel appearing for the petitioner submitted that the impugned order was a cryptic order. The counsel submitted that the impugned order was passed on the technical ground that the remedy of appeal was not exhausted. The learned counsel submitted that the impugned order was passed in violation of Rule 54 of the CISF Rules, 2001.

6. The learned standing counsel for the respondents, on the other hand, submitted that the third respondent was justified in returning the revision, as the petitioner had not exhausted the remedy of the appeal provided under Section 52 of the CISF Rules, 2001.

7. Heard both sides and perused the materials placed on record.

8. In the impugned order, the reasons cited for rejection of the revision filed by the petitioner, are as follows:



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"02. It is also intimated that you have received the final order on 06.03.2015 and you have not preferred an appeal petition within the stipulated date to DIG, CISF, South Zone, Chennai. Now you have submitted a revision petition against the above final order on 27.08.2015 to IG, CISF, South Sector, Chennai, which is not correct procedure. Hence, you are hereby directed to prefer your appeal petition to DIG, South Zone, Chennai and after receiving Appellate order from DIG, CISF, South Zone then only you can prefer revision petition to IG, CISF, South Sector, Chennai."

9. As rightly contended by the learned counsel for the petitioner, the revision was returned for not exhausting the remedy of the appeal and the same is against Rule 54 of CISF Rules, 2001.

10. Rule 54 of CISF Rules, 2001, reads as follows:

54. Revision -(1) Any authority superior to the authority making the order may either on his own motion or otherwise call for the records of any inquiry and revise any order made under these rules, and may –

(a) confirm, modify or set aside the order; or



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(b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or

(c) remit the case to the authority which made the order or to any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or

(d) pass such orders as it may deem fit, within six months of the date of communication of the order proposed to be revised;

Provided that no order imposing or enhancing any penalty shall be made by any revisioning authority unless the enrolled member of the Force concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (i) to (v) of rule 34 or to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in those clauses, and if any, inquiry under rule-36 of Central Industrial Security Force Rules, 2001 has not already been held in the case no such penalty shall be imposed except after an enquiry in the manner laid down in the aforesaid rules.



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(2) The provisions of rule 52 relating to appeals shall apply so far as may be to such orders in revision.

(3) Orders and instructions issued by the Central Government on this subject from time to time shall be applicable Mutatis mutandis as applicable under Central Civil Services (Classification Control and Appeal) Rules 1965.

11. From a reading of the above said rules, it is clear that the revisional authority has power either *suo motu* or otherwise to revise the order, to call for the records of any enquiry and revise any order under the rules. Therefore, as per Rule 54, the exhaustion of appeal remedy under Rule 52 is not mandatory. Therefore, the reasons stated by the sixth respondent for returning the revision petition in the light of Rule 54 of CISF Rules, 2001 cannot be sustained and the same is liable to be quashed. As the revision was filed within 180 days from the date of communication of the order proposed to be revised, the sixth respondent ought not to have rejected the revision petition but should have considered the same on merits.



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12. In the result, the writ petition is allowed. The impugned order passed by the 6th respondent dated 01.09.2015 in his letter No.E-42099/CISF/KIOCL/Dis.Sec./2015/1228 returning the papers relating to the revision submitted to the 3rd respondent, is quashed. The third respondent, the revisional authority, is directed to dispose of the revision filed by the petitioner on 27.08.2015, on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

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Index : Yes / No
Neutral Citation : Yes / No
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