



W.P.No.857 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.857 of 2024

and

WMP Nos. 872 & 873 of 2024

Dharmendra Kumar

....

Petitioner

Vs

1. The Director General,
Central Industrial Security Force,
Lodhi Road,CGO Complex,
New Delhi.

2. The Inspector General,
Central Industrial Security Force,
Airport Sector II, HQrs,
Bettahalasur, Bengaluru,
Karnataka – 562 157.

3. Dy.Inspector General/CASO,
CISF Unit ASG,
Meenambakkam,
Chennai – 600 027.

4. The Commandant,
CISF Unit, ASG,
Meenambakkam,
Chennai – 600 027.



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5. The Assistant Commandant,
CISF Unit, ASG
Meenabakkam,
Chennai – 600 027.

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, call for the records and quash the order passed by the 2nd respondent in Revisional Order No.V-11014/APS-2 VNI/PU. YA (08/23)/ DK/2023/3979 dated 24.05.2023 confirming the order of the 3rd respondent vide Appellate order No.V-15014/CISF/ASG(Ch)/Disc/Appeal-36/DK/2022/8415/E dated 27.09.2022 and the order of the 4th respondent in Final Order No.V-15014/CISF/ASG(Ch)/Disc/Maj-1/DK/2022/3960/E dated 10.05.2022 i.e., “ reduction of pay by one stage from Rs.32,900/- to 31,900/- in the time scale of pay level-5 for a period of one year with immediate effect. It is further directed that he will not earn increment of pay during the period of reduction and on expiry of this period, the reduction will have the effect of postponing his future increments of pay” and further direct the respondents to pay the deducted amount Rs.1000/- per month from the salary of the petitioner with effect from May 2022 to till the disposal of this writ petition.

For Petitioner : Mr.P.Prakash Paul

For Respondents : Mrs.V.Sudha
Central Government Standing Counsel



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ORDER

This Writ Petition has been filed challenging the order passed by the second respondent dated 24.05.2023, thereby confirming the order passed by the third respondent dated 27.09.2022, thereby confirming the order passed by the fourth respondent dated 10.05.2022, thereby imposed punishment of reduction of pay by one stage from Rs.32,900/- to Rs.31,900/- in the time scale of pay level-5 for a period of one year.

2. The petitioner had joined in the Central Industrial Security Force on 10.02.2018. Now he is working as Assistant Sub Inspector of Police in the Bengaluru Airport. While he was posted at Chennai Airport, an explanation was called for. On receipt of the explanation from the petitioner, without being satisfied the same, the disciplinary authority ordered for domestic enquiry. Thereafter, he was served with a charge memo dated 13.11.2021 consisting of one charge which is as follows :

“CISF No.180407035 ASI/Exe Dharmendra Kumar of CISF Unit ASG Chennai was granted 15 days PL+15 days EL w.e.f. 19.08.2021 to 17.09.2021 and his leave was further extended up to 28.09.2021 on his



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request, on the ground of individual's accident, is unauthorizedly overstaying his granted and extended leave since 29.09.2021 (FN) till date, which tantamounts to gross indiscipline, misconduct, dereliction of duty, disobedience of lawful orders and unbecoming of a member of the disciplined Armed Force of the Union, like CISF”.

3. On receipt of the enquiry report, the Disciplinary Authority imposed penalty of rejection of pay by one stage from Rs.32,900/- to Rs.31,900/- in the time scale of pay level-5 for a period of one year with immediate effect. It is further directed that he will not earn increment of pay during the period of reduction and on expiry of this period, the reduction will have the effect of postponing his future increments of pay. Aggrieved by the same, the petitioner preferred an appeal which was dismissed. Once again the petitioner filed a revision and the same was also dismissed and the order passed by the Disciplinary Authority was confirmed.

4. The learned counsel appearing for the petitioner would submit that the petitioner was granted 15 days Pl + 15 days EL with effect from 19.08.2021 to 17.09.2021. During the leave period, on



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15.09.2021, the petitioner fell down from his bike and as such, he suffered with L.S.Spine/Chest Pain related diseases. Therefore, he approached the Government Common Health Center for urgent treatment. After treatment, he was advised to take rest for 14 days and prescribed medicines. The petitioner informed his inability to the administration for extension of leave on medical ground and his leave was extended till 28.09.2021. Once again, he visited the hospital for review. On examination of the petitioner, the Doctor prescribed medicines and advised for medical rest. Therefore, the petitioner once again requested for extension of leave. However, without considering the same, some period was treated as overstay and a punishment was imposed. The petitioner had enclosed the original medical certificate and other related documents in support of his leave. Other than the leave period, the petitioner had maintained a neat and clean record for his entire service and he was not awarded any kind of major and minor punishment for his entire service career. Beacuse of his punishment, he will not be promoted to the post of SI/Exe for another five years. Therefore, the petitioner will be seriously prejudiced and irreparable loss and hardship will be caused.



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5. A perusal of the records reveals that originally the petitioner was granted 15 days PL + 15 days EL with effect from 19.08.2021 to 17.09.2021. Subsequently, on his request, his leave was extended till 28.09.2021. He unauthorisedly overstayed on the extended leave since 29.09.2021 till 10.05.2022 which tantamounts to gross indiscipline, misconduct, dereliction of duty, disobedience of lawful orders and unbecoming of a member of the disciplined Armed Force of the Union. After medical rest he was advised to join duty on 29.09.2021. However, the petitioner failed to show and remained absent. On receipt of the charge memo, the petitioner submitted his explanation. However, it was not found satisfactory and the disciplinary authority ordered for domestic enquiry. In the domestic enquiry, the Presenting Officer/Disciplinary Authority had examined P.W.1 to P.W.3 and marked 13 documents.

6. The petitioner defended the charge memo on the ground that due to his bad health condition, he was not able to attend the office. The Enquiry Officer held that the charges proved. On receipt of the enquiry report, the petitioner was served with an enquiry report. The petitioner submitted his explanation. After considering the explanation



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and the enquiry report, the disciplinary authority imposed punishment.

It is also seen that while extending the long leave till 28.09.2021, a condition of production of all medical records was imposed. Further, he was informed that no extension of leave will be entertained and he was directed to report to duty on 29.09.2021 by the communication dated 25.09.2021. Though the petitioner submitted another application for extension of leave for two weeks, it was not considered and rejected by the competent authority. It was duly intimated to the petitioner by the communication dated 09.10.2021. Even then the petitioner failed to report to duty and as such, he was served with a notice dated 29.09.2021. He reported for duty, on his own volition, on 28.11.2021. Thereafter, he participated in the enquiry, thereby the petitioner had overstayed unauthorisedly for 60 days without any compelling reasons. Therefore, he deliberately failed to comply with the instruction of the competent authority which amounts to sheer indiscipline, misconduct, dereliction of duty and disobedience of lawful orders of the competent authority. In a disciplined Armed Police Force, it is very serious in nature which deserves exemplary punishment. .



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7. However, considering the age and long service ahead, he was imposed with punishment of reduction of pay by one stage from Rs.32,900/- to 31,900/- in the time scale of pay level-5 for a period of one year with immediate effect. In an appeal, the Appellate Authority, viz., the third respondent, considering the charges and the enquiry report, dismissed the appeal by a detailed order and it was also confirmed by the Revisional Authority, viz., the second respondent. Hence, this Court finds no infirmity or illegality in the orders passed by the second respondent. Thus, the writ petition is devoid of merits and is liable to be dismissed.

8. Accordingly, this Writ Petition stands dismissed. Consequently, connected miscellaneous petitioners are closed. No costs.

18.01.2024

Internet : Yes
Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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