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W.P. No.14687 of 2012

IN THE MADRAS HIGH COURT OF JUDICATURE

DATED: 14.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE J. SATHYA NARAYANA PRASAD

W.P. No.14687 of 2012

R. Muralikrishna S/o. R. Kumaraswamy

.... Petitioner

vs.

1. The Director General,
Central Industrial Security Force,
CISF Headquarters,
Block No.13, CGO Complex, Lodhi Road,
New Delhi.

2. The Inspector General,
Central Industrial Security Force,
South Sector, Head Quarters,
Chennai Port Trust, Chennai.

3. The Deputy Inspector General,
Central Industrial Security Force Unit
NLC Neyveli, Neyveli Lignite Corporation,
Cuddalore District.

4. The Senior Commandant,
Central Industrial Security Force Unit,
NLC Neyveli, Neyveli Lignite Corporation,
Cuddalore District.

.... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India seeking to issue Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 2nd respondent in his order No.V-14013/Rev/RM/SS/2010-72 dated



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31.01.2011 rejecting the revision preferred against the appellate order passed by the 3rd respondent in appellat order No.V-15014/CISF/NLC/MAJ/APPEAL/RMK/2009 / 13573 dated 05.12.2009 confirming the order passed by the 4th respondent in his final order No.V-15014/CISF/NLC/Maj/RMK/2009/11277 dated 29.09.2009 and quash the same.

For Petitioner : Mr. A.S. Mujibur Rahman

For Respondents : Mr. K. Gunasekar, ACGS

ORDER

This Writ Petition is filed challenging the order passed by the 2nd respondent in his order No.V-14013/Rev/RM/SS/2010-72 dated 31.01.2011 rejecting the revision preferred against the appellate order passed by the 3rd respondent in appellat order No.V-15014/CISF/NLC/MAJ/APPEAL/RMK/2009 / 13573 dated 05.12.2009 confirming the order passed by the 4th respondent in his final order No.V-15014/CISF/NLC/Maj/RMK/2009/11277 dated 29.09.2009.

2. The petitioner joined in the Central Industrial Security Force as Constable on 05.05.1997 and was transferred to the NLC Neyveli in the year 2006 and further from NLC Neyveli to RSTPS Ramangundam in Andhra Pradesh State. The petitioner was charge sheeted under Rule 36 vide Charge Memorandum No.V-15014/CISF/NLC/Maj/RMK/Disc/2009-6608 dated 07.06.2009 by the Senior Commandant, CISF Unit NLC, Neyveli, the 4th respondent. The Article of Charge-I is extracted



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ARTICLE OF CHARGE-I

“Gross misconduct, indiscipline and dereliction of duty on the part of No.974480954 Constable R. Muralikrishnan of 'J' Coy, CISF Unit NLC-Neyveli in that while in 'C' shift duty from 21.00 hrs on 04.06.2009 to 05.00 hrs on 05.06.2009 at NS-3 to NS-2 Top Cable duty post along with HC/GD M. Ramesh, failed to safeguard and provide protection to the property belongs to NLC-Neyveli, which was his basic duty and thereby a theft of 20 meters 11 KV land line cable from overhead line to inside mines was cut down and taken away by the miscreants. Hence the charge”.

The petitioner submitted that the written statement of defence against the article of charge called from the enrolled member of the Force. As per the direction of the memorandum, he submitted the written statement of defence against the article of charge and denied the allegation fully and as the reply was not satisfactory to the disciplinary authority and appointed Enquiry Officer to enquire into the article of charge and also appointed a Presenting Officer on behalf of the 4th respondent to present the article of charge. The petitioner attended the preliminary enquiry and also hearing before the enquiry authority for regular enquiry and the PWS and CWS were attended enquiry and deposed their statements. The disciplinary authority, after completion of the disciplinary proceedings awarded the punishment of “REDUCTION OF PAY BY ONE STAGES i.e., FROM 7620/-+2000 GP to Rs.7340/-+2000/- FOR A PERIOD OF TWO YEARS w.e.f. 17.01.2010 i.e., AFTER RESTORATION OF FIRST PUNISHMENT VIDE ORDER No.(482) DATED 16.01.2009. IT IS FURTHER DIRECTED THAT HE WILL NOT EARN



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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” in respect of proceedings initiate under Rule 36 of CISF Rules 2001. Thereafter, the petitioner preferred the appeal against the final order, which also rejected by the Appellate Authority vide letter No.13573 dated 05.12.2009. Thereafter the petitioner preferred revision petition before the 2nd respondent on 30.08.2010 and the same was rejected by the 2nd respondent on the ground of delay in filing the revision. Aggrieved by the orders passed the 2nd to 4th respondents, the petitioner has come forward with the present Writ petition.

3. The learned counsel appearing for the petitioner would submit that the petitioner has submitted three complaint petitions against the enquiry officer on 03.07.2009, 09.07.2009 and 20.07.2009 and requested to issue necessary direction to follow the proper procedure as per rules. But no action was been taken by the disciplinary authority and the enquiry officer adopted irregular procedure against the frame work of rules and also did not allow the reasonable questions to bring out the fact from the prosecution side, hence the reasonable opportunity to defend this allegation fully denied by the enquiry authority in every step of the enquiry proceedings. The petitioner categorically contended in his representation against the enquiry officer's report that there were no light facilities in the duty post of NS-3 Top



Cable duty post to know the so called cables were live or idle. The disciplinary authority in his order has stated that as per the daily stoppage report submitted by the CWs, it was clearly established that the stoppage of conveyor and tripping, but he failed to inform the same to his reliever as well as to shift i/c had the charged official been alert in his duty, the criminal could have been apprehended and the stolen cable could have been recovered and the same is not acceptable in the absence of material evidence on records.

4. The learned counsel would also submit that there was no any lighting arrangements were made by the electrical department of NLC in the duty post of NS-3 to NS-2 Top cable duty post on 04/05.06.2009. The contention of the disciplinary authority is that the petitioner did not perform his duty with devotion and sincerity and he was totally not alert during his duty. The learned counsel would further submit that the petitioner due to family problem, sickness of his family member and transfer from NLC Neyveli to RSTPS Ramangundam, the petitioner was not able to prefer the revision petition within the stipulated period and he prayed before the 2nd respondent that the revision petition may be sympathetically considered. But the 2nd respondent without condoning the delay in filing the revision and without going into the merits of the case, has dismissed the revision petition. The Appeal / Revision Authority is supposed to pass a speaking and reasoned order, after dealing with all the issues which have been raised by the appellant and each issue has



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to be considered and decided by the Appeal / Revision Authority and a cryptic order passed by the appellate / revision authority is liable to be quashed. The petitioner requested the enquiry officer on 27.06.2008 to supply of additional documents in connection with the charge memo. Since the petitioner is entitled to prove the additional documents as per Central Government Office Letter in O.M. No.F-30/5/61 AVD dated 25th August 1961 and the provisions of the said rule should have been complied with the above Office Memorandum, applicable to the Central Government servants. Hence the punishment is liable to be quashed and he prays to allow the writ petition.

5. The counter affidavit has been filed by the respondents on 31.10.2012. It is submitted by the respondents that the petitioner was detailed at NS-3 to NS-2 Top cable duty post to safeguard and to provide protection in the Management property / material available in the area of his jurisdiction including installation of 11 KV cables. CISF personnel are being deployed for duties to safeguard the NLC properties. It is a fact that as per daily stoppage report, the Bench Machine L & T-III stopped for various reasons. But it was clearly mentioned that the machine stopped at 04.35 hrs due to tripping / fault. CW-2 and CW-3 in their statement had clearly stated that about 04.30 hours supply to NS-1 conveyor got tripped and on inspection, it was found that nearly 20 meters of 11 KV cable dropper from surface level above NS-3 till end was stolen. After removing the cupler live from the connected cable and



afterwards they arranged to make cable joint of the cut portion and restored the supply after intimation to the CISF authorities. As such, the reasons for tripping i.e., due to cutting of cable is abundantly clear beyond any reasonable doubt. Further it was immaterial whether the lying cables were in live condition or otherwise. PW2 and PW-3 deposed during the course of Departmental enquiry that the Subbaiah Nagar Road PTL sentry informed that the lights in the area were off due to electrical tripping. Further, as per the daily stoppage report submitted by the CWs, it was clearly established that the stoppage of conveyor and tripping of power supply at 04.35 hrs on 05.06.2009 occurred due to cutting down of 11 KV cables at NS-3 to NS-2 in the Top occurred due to cutting down of 11 KV cable at NS-3 to NS-2 in the Top cable duty area only. Further the petitioner himself stated that at about 04.35 hours, he heard a loud sound of tripping but he failed to inform the same to his reliever as well as to shift i/c.

6. The learned counsel for the respondents submitted that if the petitioner had been alert on his duty, the criminals would not have succeeded in their attempt of committing the theft. Further had he tried to find out the reasons of tripping then and there and would have followed by passing information to the shift the incharge, the criminals could have been apprehended and the stolen cable could have been recovered. There are nothing but the basic elements that form part of his nature of duty. If it were not, these respondents could have deployed services of a layman for



his place who would also be a mute spectator as the petitioner was in that situation.

Irrespective of any amount of resistance, the facts remain that the valuable material of cable was not only stolen but also the normal functioning was interrupted right under the nose of the petitioner who was posted there to ensure such untoward unexpected events do not take place. Thus it is quite evident that he did not perform his duties with devotion and sincerely and he was totally negligent on his duty. It is pertinent to mention here that as intimated by the Chief Manager / Electrical, Mine-II Expansion, NLC Ltd Neyveli, the cost of 20 meters of 11 KV, 3 x 185 + 3 x 35 Sqmm EPR Cable No.8031 which was stolen in the intervening night of 05.06.2009 is Rs.89,474/-. Further equivalent loss of production of Lignite / Hr = $4000 / 6 = 666.67$ Tones and Loss/ Hr (Lignite Transfer rate) = 8,70,000.00. Thus the management has suffered a total loss to the tune of Rs.48,01,974/- due to the negligence on the part of the petitioner while performing 'C' shift duty from 21.00 hrs on 04.06.2009 to 05.00 hrs on 05.06.2009 at NS-3 to NS-2 Top Cable duty post of 'J' Coy, CISF unit, NLC Neyveli in that while on along with HC / GD M. Ramesh. Further if at all the petitioner was facing any problem i.e., lighting arrangement while on duty he should have informed his shift in charge for making alternative arrangement. But it was not clear so.

7. It is the further contention of the respondents that it is a fact that as per daily stoppage report, the Bench machine L & T III stopped for various reasons. But it was



clearly mentioned in the stoppage report that the machine stopped at 04.35 hours due to tripping / fault. CW1 and CW2 in their statements had clearly stated that at about 04.30 hours supply to NS-1 conveyor got tripped and on inspection, it was found that nearly 20 meters of 11 KV cable dropper from surface level about NS-3 tail end was stolen after removing the coupler from the connected cable and afterwards they connected cable joint of the cut portion and restored the supply after giving intimation to the CISF authorities. As per the statement of Mr. G. Ilengovan, the General Manager (CW-3) New Surface System Mine-II on 05.06.2009 morning in early hours, he received information regarding the stoppage of the conveyor. After enquiry he came to know that feeder No.113 got tripped and incoming 11 KV Power to NS-01 conveyor was affected and 20 meters of land laid cable from over head line to inside mine was stolen. He also made a complaint to the Deputy Commandant CISF Mines-II on 05.06.2009 regarding the theft and produced a copy of the same as CW-3 / Ex.3. As such, the contention of the petitioner on the grounds are not maintainable and are liable to be rejected.

8. Heard both sides and perused the materials available on record.

9. The petitioner was posted as Constable of 'J' Coy, CISF unit of NLC Neyveli and while n 'C' shift duty from 21 hours on 04.06.2009 to 05.00 hours on 05.06.2009 at NS-3 to NS-2 Top Cable duty post along with HC / GD M. Ramesh



failed to safeguard and protect the property which belongs to NLC Neyveli which was his basic duty and thereby a theft of 20 meters 11 KV landline cable from overhead line to inside mines was cut down and taken away by the miscreants. Hence a charge memo dated 07.06.2009 was issued under Rule – 36 of CISF Rules 2001. An explanation was submitted by the petitioner to the charge memo. Being not satisfied with the explanation, the respondents decided to conduct enquiry and the enquiry officer was appointed and he submitted an enquiry report on 07.09.2009 holding that the charge levelled against the petitioner is proved.

ARTICLE OF CHARGE-I

“Gross misconduct indiscipline and dereliction of duty on the part of No.974480954 Constable R.Muralikrishna of 'J' Coy, CISF Unit NLC-Neyveli in that while n 'C' shift duty from 2100 hrs on 04.06.2009 to 0500 hours on 05.06.2009 at NS-3 to NS-2 Top Cable duty post along with HC / GD M. Ramesh, failed to safeguard and provide protection to the property belongs to NLC – Neyveli, which was his basic duty and thereby a theft of 20 meters 11 KV landline cable from overhead line to inside mines was cut down and taken away by the miscreants. Hence the charge”.

The disciplinary authority considering the case of the petitioner on merits after analysing imposed punishment of reduction of pay by one stage i.e., from 7620/- + 2000 GP to Rs.7340/- + 2000/- GP to Rs.7340/- + 2000/- GP in the Time Scale of Pay



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Rs.5200-20200 with GP Rs.2000/- for a period of two years with effect from 17.01.2010 i.e. after restoration of first punishment vide Order No.(482) dated 16.01.2009. It was further directed he will not earn 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.

10. The petitioner was posted to safeguard and to provide protection in the Management property / material available in the area of his jurisdiction including installation of 11 KV cables. The supply to NS-1 conveyor got tripped and on inspection, it was found that nearly 20 meters of 11 KV cable dropper from surface level above NS-3 till end was stolen. After removing the cupler live from the connected cable and afterwards they arranged to make cable joint of the cut portion and restored the supply after intimation to the CISF authorities. As such, the reasons for tripping i.e., due to cutting of cable is abundantly clear beyond any reasonable doubt. The stoppage of conveyor and tripping of power supply at 04.35 hrs on 05.06.2009 occurred due to cutting down of 11 KV cables at NS-3 to NS-2 in the Top occurred due to cutting down of 11 KV cable at NS-3 to NS-2 in the Top cable duty area only. The petitioner himself stated that at about 04.35 hours, he heard a loud sound of tripping but he failed to inform the same to his reliever as well as to shift i/c and if the petitioner passed the information to the incharge, the criminals could have been apprehended and the stolen cable could have been recovered and the fact



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remains that the valuable material of cable was not only stolen but also the normal functioning was interrupted right under the nose of the petitioner who was posted there to ensure such untoward unexpected events do not take place. It is also quite evident that he did not perform his duties with devotion and sincerely and he was totally negligent on his duty.

11. According to the Chief Manager / Electrical, Mine-II Expansion, NLC Ltd Neyveli, the cost of 20 meters of 11 KV, 3 x 185 + 3 x 35 Sqmm EPR Cable No.8031 which was stolen in the intervening night of 05.06.2009 is Rs.89,474/-, which resulted in loss of production of Lignite worth about Rs.8,70,000.00 and in total, the management has suffered a total loss to the tune of Rs.48,01,974/- due to the negligence on the part of the petitioner while performing 'C' shift duty from 21.00 hrs on 04.06.2009 to 05.00 hrs on 05.06.2009 at NS-3 to NS-2 Top Cable duty post of 'J' Coy, CISF unit, NLC Neyveli. Hence the above punishment imposed on the petitioner is proportionate to the delinquency committed by him.

12. In view of above factual matrix of the case, this Court is not inclined to interfere with the order passed by the 2nd respondent in his order No.V-14013/Rev/RM/SS/2010-72 dated 31.01.2011 rejecting the revision preferred against the appellate order passed by the 3rd respondent in appellate order No.V-15014/CISF/NLC/MAJ/APPEAL/RMK/2009 / 13573 dated 05.12.2009 confirming



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the order passed by the 4th respondent in his final order No.V-15014/CISF/NLC/Maj/RMK/2009/11277 dated 29.09.2009 and the same is hereby confirmed.

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13. In the result, the Writ Petition stands dismissed. No costs.

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Internet : Yes

Index:Yes/No

Neutral Citation:Yes/No

To

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CISF Headquarters,
Block No.13, CGO Complex, Lodhi Road,
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