



WEB COPY



W.P.No.18780 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.18780 of 2011

P V S.Ravi Kanth

...Petitioner

Vs

- 1.The Union of India,
Represented by its Secretary to the Government,
Department of Home Affairs,
New Delhi.
- 2.The Director General,
Central Industrial Security Force,
HQrs.13, CGO Complex,
Lodhi Road, New Delhi-110 003.
- 3.The Inspector General,
CISF (South Sector) HQrs,
Near War Memorial, Chennai.
- 4.The Deputy Inspector General,
CISF Unit NLC Neyveli,
Cuddalore District, Tamil Nadu.
- 5.The Deputy Inspector General,
CISF (South Zone) HQrs.
Besant Nagar, Chennai.
- 6.The Senior Commandant,
CISF Unit NLC Neyveli,
Cuddalore District, Tamil Nadu.



W.P.No.18780 of 2011

7.The Commandant,
CISF Unit SCCL Singareni,
Post : Srirampur,
Dist : Adilabad, Andhra Pradesh.

8.The Assistant Commandant/Adm,
CISF Unit NLC Neyveli,
Cuddalore District, Tamil Nadu.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 4th respondent in his order No.V-15014/NLC/DISC/REVISION/UR-37/(RK)/2011/3916 dated 28.04/04.05.2011 confirming the appellate order No.V-15014/NLC/DISC/APPEAL-37(RK)/2010/11452 dated 22.11.2010 passed by the 6th respondent confirming the final order No.V-15014/CISF/NLC/MIN/RK/DISC/2010/10477 dated 23.10.2010 passed by the 8th respondent and quash the same.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : M/s.Dr.D.Simon,
Central Government Standing Counsel

ORDER

The Writ Petition is filed calling for records relating to the order passed by the 4th respondent in his order No.V-15014/NLC/DISC/REVISION/UR-37/(RK)/2011/3916 dated 28.04/04.05.2011 confirming the appellate order No.V-15014/NLC/DISC/APPEAL-37(RK)/2010/11452 dated 22.11.2010



W.P.No.18780 of 2011

passed by the 6th respondent confirming the final order No.V-

15014/CISF/NLC/MIN/RK/DISC/2010/10477 dated 23.10.2010 passed by the

8th respondent and for quashing the same.

2.Learned counsel for the petitioner submitted that petitioner joined Central Industrial Security Force as Sub-Inspector (Steno) on 03.09.1992. After training, he was deployed at CISF Unit FCI Sindri, District, Dhanbad (Jharkand). Thereafter, he was posted to CISF Group Head quarters, Patna, CISF Unit NALCO Damanjodi, CISF Unit RSTPS Ramagundam, CISF Unit SCCL Singareni and CISF Unit NLC Neyveli. When he was working in CISF NLC Neyveli, he was issued a charge memorandum, which reads as follows:-

“CISF No.924430033 SI/Steno P VS Ravi Kanth of CISF Unit NLC Neyveli, while serving at CISF Unit SCCL (S) as Dealing Assistant in Discipline Section and custodian of all records pertaining to the section failed to take proper care in preserving the DE case files of the Unit which resulted in weeding out of DE case file in respect of Ex-HC/GD Yashwant Kumar of CISF Unit SCCL (S) in the year 2006,



W.P.No.18780 of 2011

WEB COPY

when a case filed by him was pending before the Hon'ble High Court of MP at Jabalpur. This act on his part tantamount to gross negligence and careless attitude in dealing with official records. Hence the charge."

2.1.He submitted a detailed representation dated 12.10.2010. After oral enquiry, the Enquiry Officer concluded that no one can personally be held responsible for the weeding out of DE case files in respect of EX-HC/GD Yashwant Kumar, because of its physical condition.

2.2.He further submitted that a Board was constituted for weeding out old/obsolete files by burning. Accordingly, a list of old/obsolete records were prepared and listed in Appendix 'A' to 'M'. This list was prepared with the assistance of concerned Section Incharges of the Bn.Headquarters. The file relating to EX-HC/GD Yashwant Kumar was also included in the list for destruction, for the reason that, it was very old. Consequently, it was also destroyed. That is the reason why the Enquiry Officer found that petitioner cannot be personally held responsible for destroying the file. However, the Disciplinary Authority without taking into account, exoneration of the petitioner from charges, proceeded to impose the punishment of Censure. Against the said



W.P.No.18780 of 2011

punishment, petitioner filed an Appeal before the Appellate Authority. Appellate Authority in No.V-15014/NLC/Disc/Appeal-37(RK)/2010/11452 dated 22.11.2010 confirmed the findings of the Disciplinary Authority and dismissed the Appeal.

2.3.In continuation of his submissions, learned counsel for the petitioner further submitted that petitioner was not personally responsible for the destruction of the EX-HC/GD Yashwant Kumar file and there was a finding of the Enquiry Officer as well. Therefore, the punishment imposed against him is illegal and prays for setting aside the proceedings of the 4th, 6th and 8th respondents referred above.

3.In reply to his submissions, learned counsel for the respondents submitted that petitioner was assigned with the charge of Discipline section of CISF Unit SCCL, Singareni with effect from 11.05.2005. Further, he was assigned with the responsibilities of Court cases with effect from 22.10.2005 vide office order No.11681 dated 22.10.2005. The office order No.1373 dated 04.02.2006 detailing the Board of Officers for weeding out of the old/obsolete office records was issued on 04.02.2006. Enough time was left with petitioner to take care of the records under his custody. However, petitioner failed to check



W.P.No.18780 of 2011

the condition of DE case files under his custody. He did not take any preventive measures and failed to intimate the condition of the records. Petitioner being aware of the pendency of EX-HC/GD Yashwant Kumar file, should have segregated and preserved it for further Court reference. It is his primary responsibility. However, petitioner failed to do so. Taking this fact into consideration, the Disciplinary Authority found him responsible and his conduct amounts to gross negligence and careless attitude dealing with the records and thus imposed a punishment of Censure. It was confirmed by the Appellate Authority. Petitioner does not deserve any re-consideration of the punishment ordered against him. Thus, he prays for dismissal of this petition.

4.Considered the rival submissions and perused the records.

5.It is not in dispute that a Board had been constituted for destroying old/obsolete records and an exercise had been undertaken for weeding out old records listed in Appendix 'A' to 'M' by destruction. It is seen from the Enquiry Officer's report that name of EX-HC/GD Yashwant Kumar is mentioned at Appendix 'J' under Sr.No.21 for weeding out. Admittedly, a case in Madhya Pradesh High Court is pending in connection with this file. Therefore, as a custodian of the official records relating to DE case file, petitioner is expected to



W.P.No.18780 of 2011

ensure that this file is not included in the list of records identified for destruction. The reading of Enquiry Officer's report shows that four files in which Court cases are pending, are not destroyed but kept in safe custody. The Enquiry Officer found that since the condition of EX-HC/GD Yashwant Kumar file is not retainable, it was destroyed. For this reason, the Enquiry Officer found that petitioner was not responsible.

6. Obviously his finding cannot be accepted, for the reason that when four other files, where cases are pending, are kept separate, this file should have also been kept separate for the reference in the pending case before the Madhya Pradesh High Court. This is the reason why the Disciplinary Authority found that though there was no deliberate intention on the part of the petitioner, to weed out the file, petitioner as the in-charge dealing with Discipline section and custodian of all records pertaining to Discipline section failed to take proper care in preserving the DE case file relating to EX-HC/GD Yashwant Kumar, which resulted in destruction of this file. Therefore, he found that petitioner's conduct amounts to gross negligence and careless attitude, in dealing with official records and ordered the punishment of Censure. It was confirmed by the Appellate Authority also.



W.P.No.18780 of 2011

WEB COPY

7.From the facts and circumstances of the case, this Court finds that Disciplinary Authority rightly not agreed with the Enquiry Officer's finding that petitioner cannot be personally held responsible and on facts found that petitioner was infact responsible for preservation of the DE case file relating to EX-HC/GD Yashwant Kumar. Having failed in his duty, it was found that petitioner's conduct amounts to gross negligence and careless attitude in dealing with official records and minimum punishment of Censure was imposed, and it was confirmed by the Appellate Authority.

8.This Court finds no reason to take different view of the matter and therefore, petitioner's prayer for setting aside the order passed by the 4th respondent in his order No.V-15014/NLC/DISC/REVISION/UR-37/(RK)/2011/3916 dated 28.04/04.05.2011 confirming the appellate order No.V-15014/NLC/DISC/APPEAL-37(RK)/2010/11452 dated 22.11.2010 passed by the 6th respondent confirming the final order No.V-15014/CISF/NLC/MIN/RK/DISC/2010/10477 dated 23.10.2010 passed by the 8th respondent cannot be entertained.



W.P.No.18780 of 2011

WEB COPY 9. Accordingly, this Writ Petition is dismissed. No costs.

30.01.2024

Index: Yes/No

Speaking order/Non-speaking order
gd

To

1. The Union of India,
Represented by its Secretary to the Government,
Department of Home Affairs,
New Delhi.
2. The Director General,
Central Industrial Security Force,
HQrs.13, CGO Complex,
Lodhi Road, New Delhi-110 003.
3. The Inspector General,
CISF (South Sector) HQrs,
Near War Memorial, Chennai.
4. The Deputy Inspector General,
CISF Unit NLC Neyveli,
Cuddalore District, Tamil Nadu.
5. The Deputy Inspector General,
CISF (South Zone) HQrs.
Besant Nagar, Chennai.
6. The Senior Commandant,
CISF Unit NLC Neyveli,
Cuddalore District, Tamil Nadu.



WEB COPY



W.P.No.18780 of 2011

G.CHANDRASEKHARAN, J.

gd

7.The Commandant,
CISF Unit SCCL Singareni,
Post : Srirampur,
Dist : Adilabad, Andhra Pradesh.

8.The Assistant Commandant/Adm,
CISF Unit NLC Neyveli,
Cuddalore District, Tamil Nadu.

W.P.No.18780 of 2011

30.01.2024