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W.P.No.20653 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.20653 of 2011

Mohammed Sadique

....Petitioner

Vs

1. Union of India,
Rep.by its Secretary,
Ministry of Home Affairs,
New Delhi.
2. The Director General,
Central Industrial Security Force,
CGO Complex, New Delhi.
3. The Senior Commandant,
Central Industrial Security Force,
4th NDRF BN, Arakkonam.
4. The Deputy Inspector General,
CISF, Ministry of Home Affairs,
D Block Rajaji Salai,
Besant Nagar, Chennai – 600 090.
5. The Senior Commandant,
Central Industrial Security Force Unit,
Shar Centre, Sriharikota,
Nellore District,
Andhra Pradesh.

....Respondent

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PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorari Mandamus to call for the records in No.V-14013/CISF/NDRF/(A)/Disc/CC/2010/220 dated 06.01.2011 on the file of the third respondent and quash the same as illegal, arbitrary and against the law in so far as rejecting the allowances claimed by the petitioner and thereby direct the respondents to pay the allowances viz., cost of ration, Transportation Allowanc (TPT), DA for TPT, Leave Encashment, House Rent Allowance as per the law.

For Petitioner : Mr.M.Arvind Kumar

For Respondents : Mr. G.Ilangovan

ORDER

The Writ Petition has been filed to call for the records in No.V-14013/CISF/NDRF/(A)/Disc/CC/2010/220 dated 06.01.2011 on the file of the third respondent and quash the same as illegal, arbitrary and against the law in so far as rejecting the allowances claimed by the petitioner and thereby direct the respondents to pay the allowances viz., cost of ration, Transportation Allowanc (TPT), DA for TPT, Leave Encashment, House Rent Allowance as per the law.



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2. It is the submission of the learned counsel for the petitioner that petitioner was working as Constable in Central Industrial Security Force, IV NDRF, BN Suraksha Campus, Arakkonam. He was issued a charge memo alleging that he sent representations to various officials to redress his grievance by bypassing the prescribed channel. He was removed from Service by an order dated 19.01.2001 and that order was confirmed by the Appellate Authority on 03.04.2001. He filed Writ Petition in W.P.No.19929 of 2008 before this Court against the order of the Appellate Authority. This Court pleased to allow the Writ Petition on 14.07.2009 by setting aside the orders passed against him with a direction to reinstate him in service. He was reinstated in service consequent to the order of the 3rd respondent by an order dated 26.09.2009. Though he was reinstated, he was not paid the allowances due to him namely Transport Allowance, DA for TPT allowance, Washing Allowance/KMA, COR, House Rent Allowance/NFAS, Bonus and Leave Encashment etc., His representation dated 20.04.2010 to pay his allowances was not considered favourably. By an impugned proceedings, part of his request was considered and certain allowances were not paid to him. Therefore, this Writ Petition.



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3. It is the submission of the learned counsel for the petitioner that, punishment of removal from service imposed against him was restrained by this Court in W.P.No. 19929 of 2008. In pursuance of orders passed by this Court, the Senior Commandant of Central Industrial Security Force Unit in a proceedings dated 26.09.2009 ordered his reinstatement. In the said order, it was specifically stated that, the regularization of his service between the date of his removal and date of reporting reinstatement will be issued separately. As per the Rule 6 of Central Government Employees, on reinstatement, petitioner is entitled for full pay and allowances. Thus rejection of part of the allowances to the impugned order is not appropriate and illegal.

4. In response, the learned counsel for the respondents submitted that, petitioner's representation for payment of allowances were considered. On considering his request, he was ordered to be paid Washing Allowances, HRA, if he was drawing prior to the date of dismissal and adhoc bonus. So far as the claim of the Cost of ration, it was decided that, this cannot be paid for the reason that, this is not part of pay and allowances. So is the case with regard to grant of Transportation Allowance (TPT), DA thereon, Leave



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Encashment for performing of duties on holidays/ weekly off. Since, the petitioner had not performed the duty during the period, he is not entitled for this allowances. Therefore, his claim with regard to these allowances was rightly rejected.

5. Considered the rival submissions and perused the records. From the facts narrated above and the documents filed along with this Writ Petition and the submission of the learned counsel for the parties, it is not in dispute that the petitioner was removed from service and then reinstated by the orders passed by this Court. The issue is with regard to the rejection of certain allowances. Especially, the allowances relating to the cost of ration, Transportation Allowance (TPT), DA thereon, Leave Encashment for performing the duties on weekly off. Rule 6 of Central Government Employees no doubt says that, petitioner is entitled for full pay and allowances on reinstatement on the basis of the Court's order. However, only admissible allowances are payable.

6. It is the submission of the learned counsel for the respondents that cost of ration is not a part of the pay and allowances. With regard to grant of Transportation Allowance (TPT), DA thereon and the encashment of



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leave for performing duties on holiday/ weekly off, the question of payment of these allowances will arise only if he had performed duties on holidays/weekly off and traveled in connection with Official purposes. Petitioner was out of employment from the date of dismissal till the date of reinstatement. Therefore, there is no question of workings on Holiday / Week-Off. During the period of dismissal, he was not travelling on Official Duty. Therefore, there is no question of paying Transportation Allowance (TPT), DA for TPT, Leave Encashment.

7. This Court on considering the relevant rule position and submissions finds force in the submission of the learned counsel for the respondent. Admittedly, petitioner had not traveled on Official Purpose during the period of the dismissal. Cost of ration is not a part of pay and allowances. Therefore, rejection of this allowances by the impugned order cannot be found to be illegal or irregular. Only when there is right, there is remedy. This Court finds that there is no right available to the petitioner for grant of remedy for the grant of aforesaid allowances. Therefore, the claim was rejected.



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8. Accordingly, this Writ Petition is dismissed. No cost. This Court clarifies that, petitioner is entitled for washing allowances, HRA, if he say that, he drawing HRA prior to the date of dismissal and adhoc bonus.

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Index :Yes/No
Internet:Yes/No
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G.CHANDRASEKHARAN, J



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To

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