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W.P.No.21199 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.21199 of 2010

M.Vincent Raj,
Constable/GD,
CUSF No.902293944,
CISF Unit NLC, Neyveli,
Cuddalore District.

...Petitioner

Vs

1.The Senior Commandant,
CISF Unit – NLC, Neyveli,
Cuddalore District.

2.The Deputy Inspector General,
CISF Unit – NLC, Neyveli,
Cuddalore District.

3.The Inspector General,
CISF, South Sector,
Near War Memorial,
Chennai Port Complex,
Chennai – 600 009.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the 3rd respondent in No.V-15014/L & R/SS/Rev/MVR/2010 dated 26.02.2010 confirming the orders of the Appellate Authority i.e., the 2nd respondent in No.V-15014/CISF/NLC/Maj/MVR/Appeal/2009/7734 dated



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01.07.2009 and the Disciplinary Authority (i.e.) the 1st respondent in No.V-15014/NLC/Disc/Maj/Appeal/2009/5586 dated 13.05.2009 and quash the same.

For Petitioner : Mr.C.K.M.Appaji
For Respondents : Mr.C.Samivel
Special Central Govt. Standing counsel

ORDER

The Writ Petition is filed calling for the records pertaining to the order of the 3rd respondent in No.V-15014/L & R/SS/Rev/MVR/2010 dated 26.02.2010 confirming the orders of the Appellate Authority i.e., the 2nd respondent in No.V-15014/CISF/NLC/Maj/MVR/Appeal/2009/7734 dated 01.07.2009 and the Disciplinary Authority (i.e.) the 1st respondent in No.V-15014/NLC/Disc/Maj/Appeal/2009/5586 dated 13.05.2009 and quash the same.

2.Learned counsel for the petitioner submitted that petitioner was working as Constable in CISF, NLC, Neyveli. After obtaining necessary leave, he visited his native place at Muttucadu, Kanyakumari District for attending the marriage of his niece Diana, which was held on 12.11.2008. After marriage, he came back to Neyveli on 13.11.2008. One Stalin Jose, the son of his cousin Devadas died under mysterious circumstances. In order to settle the family score, the death was converted into murder and case was registered in Crime No.716 of 2008 on the file of the Inspector of Police, Thuckalay Station.



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Petitioner along with his brothers namely Saveriar Adimai and Lucas were made as accused. To avoid harassment, he had to leave with his pregnant wife to get anticipatory bail. He was granted anticipatory bail in CrI.M.P.No.33 of 2009 on 07.01.2009 by the learned Sessions Judge, Kanyakumari District. Thereafter, he went to Neyveli office and narrated the event. But he was served with charge memo by the 1st respondent dated 02.01.2009, for the misconduct of overstaying and also for not informing murder case pending against him. He offered his explanation. His request was not accepted and an Enquiry Officer was appointed. The Enquiry Officer found him guilty of both the charges. The Disciplinary Authority imposed punishment of reduction of pay by three stages from Rs.10,710/- to Rs.9,780/- in the scale of pay of Rs.5200/- to 20200/- for the period of three years with effect from 14.05.2009. It was further ordered that he will not get increments of pay during the period of reduction and on the expiry of this period, reduction will have the effect of postponing his future increments of pay. The Appeal and Revision filed against this order were rejected. Therefore, this Writ Petition is filed.

2.1.It is the submission of the learned counsel for the petitioner that, as per CISF Rules, 1969, subsequent Rule 31(e) that is no punishment provided for the withholding of increment with cumulative effect. Therefore, the



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punishment imposed against him for reducing the pay by three stages for 3 years with cumulative effect will seriously affect his pay and retirement benefits. Relying heavily on this ground and only on this ground, he challenged the punishment. In support of his submissions, he produced the order passed in **W.P.Nos.23705 of 2003** in the case of *Gaurav Joshi & ors. Vs. Union of India & ors.*, wherein it was held that imposing punishment with cumulative effect is not correct.

3.In reply, learned counsel for the respondent submitted that charge memorandum had been issued to the petitioner for the misconduct committed during the year 2008. 1st charge was that, he overstayed the leave sanctioned to him with effect from 14.11.2008 without obtaining proper permission from the competent authority. The additional charge was that he suppressed the involvement in a criminal case and it would amount to gross misconduct, indiscipline and dereliction of duty.

4.Considered the rival submissions and perused the records.

5.In view of the facts obtained, it is no dispute that petitioner was slapped with charge and additional charge on the aforesaid reasons. He offered



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his explanation on 12.01.2009 for both the charges. Not satisfied with the explanation, an enquiry was conducted. The Enquiry Officer found on the basis of the oral and documentary evidence that both the charges have been proved. The Disciplinary Authority, on going through the charge memo found the charge against the petitioner is proved. He was given a 2nd show cause notice for the offering his explanation. Thereafter, impugned punishment was passed.

5.1.The main ground on which, the learned counsel for the petitioner canvassed in this Writ Petition is that there is no provision available in the CISF Rules, 1969 to impose the punishment of withholding of increment with cumulative effect. He also relied on the Judgment in **W.P.Nos.23705 of 2003**. However, on going through the records and submissions of the learned counsel for the respondent, this Court finds that, when the incident happened in 2008, CISF 2001 Rules was in force. Petitioner was slapped with charge memorandum for committing misconduct requiring major punishment. Rule 34 of CISF Rules, 2001 deals with nature of penalties. The major penalties involves,

i)dismissal from service which shall ordinarily be a disqualification for future employment under the Government;



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(ii) *removal from service which shall not be a disqualification for future employment under the Government;*

(iii) *compulsory retirement;*

(iv) *reduction to a lower time scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government servant to the time scale of pay, grade, post or service from which he was reduced with or without further directions regarding conditions of restoration to the grade or post or service from which enrolled member of the Force was reduced and his seniority and pay on such restoration to that grade, post or service;*

(v) *save as provided for in clause (viii) below - reduction to a lower stage in the time scale of pay for a specified period with further directions as to whether or not the enrolled member will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will have the effect of postponing the future increments of his pay.”*

5.2.Rule 34(iv) clearly shows that the penalty to reduction to lower time scale of pay will have a effect from postponing future increments. This punishment can also be imposed as one of the punishments. Therefore, the submission of the learned counsel for the petitioner that there is no provision



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for imposing punishment of withholding increment with cumulative effect is available under CISF Rules, cannot be accepted. He wrongly relied on CISF Rules, 1969 Rules, when it was no more in force in 2008. Therefore, this judgment cannot be made applicable to the facts of the case. CISF Rules, 2001 i.e., Rule 34(iv) provides for imposing punishment of reduction of pay which will have the effect of postponing future increments.

6. Invoking this Rule, petitioner was imposed the punishment of reducing the pay by three stages for 3 years with cumulative effect. Therefore, this Court finds no illegality or irregularity in imposing the punishment of reducing the pay by three stages for 3 years with cumulative effect. Therefore, the order of the 3rd respondent in No.V-15014/L & R/SS/Rev/MVR/2010 dated 26.02.2010 is confirmed. Consequently, this Writ Petition is dismissed. Parties shall bear their costs.

26.02.2024

Index: Yes/No

Speaking order/Non-speaking order

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G.CHANDRASEKHARAN, J.

gd

To

- 1.The Senior Commandant,
CISF Unit – NLC, Neyveli,
Cuddalore District.
- 2.The Deputy Inspector General,
CISF Unit – NLC, Neyveli,
Cuddalore District.
- 3.The Inspector General,
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