



W.P.No.6875 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 20.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.6875 of 2010

and

M.P.No.01 of 2010

V.Srinivasan
....Petitioner

Vs

1. The Senior Commandant,
Central Industrial Security Force Unit,
N.L.C,
Neyveli.
2. The Deputy Inspector General,
Central Industrial Security Force Unit,
South Zone, Rajaji Bhavan,
'D' Block, Besant Nagar,
Chennai – 600 090.
3. The Inspector General,
SS Head Quarters,
Besant Nagar,
Chennai 600 090.

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for the records in No.V.15014/CISF/NLC/CC/VS/09/14239 dated 24.12.2009 on the file of 1st respondent and quash the same and consequently direct the respondents to pay 75% substance allowance for the period for 26.07.1995 to 28.01.2002 and 29.01.2002 to 06.05.2002.



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For Petitioner : Dr.G.Krishnamurthy
For Respondents : Mr.D.Simon

ORDER

The Writ Petition has been filed calling for the records in No.V.15014/CISF/NLC/CC/VS/09/14239 dated 24.12.2009 on the file of 1st respondent and quash the same and consequently direct the respondents to pay 75% substance allowance for the period for 26.07.1995 to 28.01.2002 and 29.01.2002 to 06.05.2002.

2. The learned counsel for the petitioner submitted that, petitioner was dealt under Rule 34 of CISF rules 1969 for five counts of charges by Gp.Commandant, CISF Gp Head Quarters, Chennai vide charge memorandum dated 22.02.1992. On finalization of departmental enquiry, the Disciplinary Authority imposed the penalty of “Removal from Service” vide order dated 30.10.1992. The appeal filed by the petitioner was rejected by the Appellate Authority. In the Revision, the Revisional Authority quashed the whole proceedings initiated against the petitioner and reinstated him into service with a direction to the disciplinary authority to conduct a de-novo enquiry from the stage of issue of charge memorandum vide IG(SWS)HQs Mumbai Order dated 07.11.1994. Accordingly, petitioner



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was reinstated in service on 17.11.1984 and he was issued a fresh charge memorandum for seven counts of charges vide charge memorandum No.150 dated 06.01.1995. On finalization of denova enquiry, disciplinary authority imposed penalty of “Removal from Service” vide order dated 25.07.1995. The appeal and revision filed by the petitioner were rejected by the respective authorities.

3. Petitioner filed W.P.No.9759 of 1997 before this Court against the penalty. On 12.07.2001, when the matter came for hearing, the impugned proceedings was quashed with liberty to proceed further afresh on the charges II and VII. Against the said judgement, the department preferred a Writ Appeal before this Court in W.A.No.2386 of 2001, wherein the Hon'ble Division Bench of this Court modified the order in W.P.No.9759 of 1997 to the extent that, the disciplinary authority shall pass fresh order of punishment on the charges II and VII only, mindful of the fact that the petitioner was out of job for 9 years. The disciplinary authority again imposed penalty of “Removal from Service” vide Gp.Commandant, Chennai order dated 29.01.2002.



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4. While disposing the appeal filed by the petitioner, the Appellant Authority by an order dated 29.01.1992 modified the penalty to that of “Reduction of pay to the minimum stage in the time scale of pay for a period of five years with cumulative effect from the date of reinstatement in service with the proposal to regularize the intervening period from the date of removal and date of reinstatement as “Dies-Non” vide order dated 24.04.2002. Petitioner reported to CISF Unit, CPCL, Manali on 06.05.2002 (AN) and accordingly he was taken on strength of CISF Unit, CPCL Manali and in CISF w.e.f 07.05.2002 (FN). The intervening period from the date of removal from service and the date of reinstatement ie., from 26.07.1995 to 28.01.2002 and 29.01.2002 to 06.05.2002 were regularized as “Dies-Non” vide DIG(SZ)HQs Chennai dated 20.12.2002. Aggrieved against the order of the Appellate Authority dated 24.04.2002, petitioner preferred a revision petition in IG.CISF SWS Hqs Mumbai and it was rejected on 05.05.2003. Petitioner filed a Writ Petition in W.P.No.12602 of 2004 challenging the modified punishment and regularization of intervening period as “Dies Non” of Appellate Authority. This Court passed an order on 27.04.2009 and sets aside the order treating the period from the date of removal and date of reinstatement as “Dies Non”. Thereafter, 3rd



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respondent passed an order on 24.12.2009 treating the period from 26.07.1995 to 28.01.2002 and 29.01.2002 to 06.05.2002 as continuity of service for all purposes, except pay and allowances on No Work -No Pay principle. It is further submitted by the learned counsel for the petitioner that, this Order is contrary to the direction given in W.P.No.12602 of 2004 and petitioner is entitled for all the monetary benefits for the aforesaid prayer.

5. In reply, the learned counsel for the respondents submitted that, in pursuance to the order passed in W.P.No.12602 of 2004, the Senior Commandant, CISF Unit, NLC Neyveli passed an order on 24.12.2009, wherein it was stated as follows:

8. In compliance to the Hon'ble High Court Judgement mentioned above, the intervening periods from the date of removal from service and date of reinstatement ie., 26.07.1995 to 28.01.2002 and 29.01.2002 to 06.05.2002 are hereby regularized as continuity of service for all purposes except pay and allowances on "No Work No Pay" basis as he has not rendered any work during the aforesaid periods.



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Thus, the order of this Court in W.P.No.12602 of 2004 was complied with and therefore there is no cause for any grievance for the petitioner. Thus, he prayed for dismissal of the petition.

6. Considered the rival submissions and perused the records. It is seen from the narration of the facts that, petitioner was charge sheeted and enquiry was conducted and that was set aside and then denova enquiry was conducted and after denova enquiry, petitioner was removed from service. In an appeal filed by the petitioner, punishment of removal from service was modified to the effect that, “Reduction of pay to the minimum stage in the time scale of pay for a period of five years with cumulative effect from the date of reinstatement in service with the proposal to regularize the intervening period from the date of removal and date of reinstatement as “Dies-Non”. Against the punishment, appeal and revision were filed and both had been dismissed. Therefore, petitioner filed W.P.No.12602 of 2004, wherein this Court passed the following order:

4. Now, coming to the order of punishment, reduction of pay to the minimum in the time scale of pay for a period of five years with cumulative effect as imposed by the Appellate Authority viz., the second



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respondent upon the petitioner will suffice to meet the ends of justice. Therefore, the further punishment upon the petitioner by the second respondent regarding “Dies Non” as stated by him in paragraph 8 of his order dated 24.04.2002 if allowed to be implemented, it will amount to double jeopardy, in other words, we do not want the petitioner to be punished twice for one and same act o charges framed against him.

5. Therefore, the order of the second respondent treating the period from the date of removal from service and the period viz., the date on which the petitioner was reinstated in service as “Dies Non” dated 24.04.2002 as affirmed by the third respondent by order dated 05.05.2003 is set aside. The Writ Petition is allowed to this extent only. No costs.

7. Thereafter an impugned order had been passed on 24.12.2009, where in it was stated as follows:

08. In compliance to the Hon'ble High Court Judgement mentioned above, the intervening periods from the date of removal from service and date of reinstatement ie., 26.07.1995 to 28.01.2002 and 29.01.2002 to 06.05.2002 are hereby regularized as continuity of service for all purposes except pay & allowances on “No Work No Pay” basis as he



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has not rendered any work during the aforesaid period.

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8. In W.P.No.12602 of 2004 in para(4) it was clearly stated that, punishment of reduction of pay to the minimum in the time scale of pay for a period of five years with cumulative effect imposed by the Appellate Authority upon the petitioner will suffice to meet the ends of justice. Therefore, further punishment imposed against the petitioner regarding Dies Non, if allowed to be implemented, it will amount to double jeopardy. It was specifically stated that, this Court does not want to punish the petitioner twice for one and same set of charges framed against him.

9. Thus, the impugned order dated 24.12.2009 was passed to regularize the period of absence ie., intervening period from the date of removal from service and the date of reinstatement ie., from 26.07.1995 to 28.01.2002 and 29.01.2002 to 06.05.2002 with continuity of service for all purposes. The order proceeded to say that, this continuity of service will apply for all purposes except pay and allowances on No Work -No Pay principle. This particular portion of the order cannot be accepted for the reason that if it allowed to be implemented, it will amount to punish the petitioner twice for the same set of charges.



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10. Therefore, this Court set asides the part of the impugned order ie., except pay & allowances on “No Work No Pay” basis as he has not rendered any work during the aforesaid period passed by the 1st respondent in No.V.15014/CISF/NLC/CC/VS/09/14239 dated 24.12.2009. Petitioner is entitled for not only regularization of service from 26.07.1995 to 28.01.2002 and 29.01.2002 to 06.05.2002 with continuity of service and pay and allowances on the basis of his reduced pay ie., Reduction of pay to the minimum stage in the time scale of pay for a period of five years with cumulative effect.

11. Accordingly, this Writ Petition is allowed. Three months time is granted to the respondents to comply with the order. Consequently, connected miscellaneous petition is closed. No costs.

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Index :Yes/No
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G.CHANDRASEKHARAN, J

Sma

To

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