



W.P.No.20289 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **23.07.2024**

CORAM

THE HONOURABLE Ms. JUSTICE **P.T.ASHA**

W.P.No.20289 of 2015

N.K.Singh

... Petitioner

-VS-

1.The Union of India,
represented by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.

2.The Director General,
Central Industrial Security Force,
No.13, CGO Complex,
Force Head Quarters,
Lodhi Road, New Delhi-110 003.

3.The Inspector General,
Central Industrial Security Force,
Head Quarters, South Sector,
Chennai Port Trust Campus,
Near War Memorial, Chennai-600 009.

4.The Deputy Inspector General,
Central Industrial Security Force,
Head Quarters, South Zone,
D Block, 1st Floor, Rajaji Bhavan,



W.P.No.20289 of 2015

WEB COPY

Besant Nagar, Chennai-600 090.

5.The Senior Commandant,
Central Industrial Security Force Unit,
Visakhapattinam Port Trust,
DLB Building, 2nd Floor,
Visakhapattinam Port Area,
Visakhapattinam-530 035.

6.The Assistant Commandant,
Central Industrial Security Force Unit,
B-Sector, Visakhapattinam Port Trust,
Visakhapattinam.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying 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-11014 (1)/Rev/24/ Disc/SZ/2014/3791 dated 29.05.2014 confirming the order of the 5th respondent in his appellate order No.V-11015/ VPT/ Disc/ Appeal/NKS/14/1243 dated 10.03.2014 confirming the order of the 6th respondent in his final order No.V-15015/ CISF/ VPT/B-Sect/ UR-37/NKS/2013/3025 dated 30.12.2013 and quash the same and direct the respondents to pay all the benefits.

For petitioner : Mr.A.S.Mujibur Rahman



W.P.No.20289 of 2015

For respondents : Mr.R.Siddarth,
Central Government Counsel.

ORDER

Challenging the dismissal of his representation by the 4th respondent, the petitioner is before this Court.

2. It is the case of the petitioner that he had joined CISF as Constable on 06.06.1992. On 06.12.2013, he was issued with a charge memo stating that he has committed acts that amounts to gross indiscipline, disobedience of lawful order, dereliction of duty and utter negligence towards performance of Government bonafide duties and unbecoming conduct being a member of discipline force. The petitioner had submitted a detailed reply to the said charge on 25.12.2013. However, the 6th respondent, on 30.12.2013, proceeded to pass an order without conducting an enquiry, awarding a punishment of penalty of fine to an amount equivalent to five days pay.



W.P.No.20289 of 2015

WEB COPY

3. The petitioner had filed an appeal against this order to the 5th respondent who confirmed the same by rejecting the petitioner's appeal on 13.01.2014, as against which, the petitioner has filed this writ petition.

4. Heard the learned counsel on either side and perused the materials available on record.

5. The charge against the petitioner in simple words was that on 29.11.2013, at around 1930 hours, when he was called on to receive the movement order, he had refused to accept the order. He was therefore, asked to appear before the Senior Commander in R1 Office which he denied to appear even though he was called thrice. On the 4th occasion, he appeared and this time too, he denied to proceed on I.S duty and thus, he had disobeyed the lawful order of the competent authority.



W.P.No.20289 of 2015

WEB COPY

6. A perusal of the final order passed by the 6th respondent would indicate that the respondents have not taken into account the health issues of the petitioner viz., vertebral disc problem. The authorities also stated that the petitioner has not given any representation regarding his vertebral disc problem. This runs contrary to the very charge where it has been clearly stated that on 29.11.2013, the petitioner had appeared before the Sector Commander “B” Coy and told about his vertebral disc problem. Therefore, the petitioner's physical inability has been already informed to the authorities and hence, the observation that he has not made any representation about his health issue is to say the least absurd. The appellate authority and the revisional authority had simply followed suit.

7. It is also an admitted fact that the petitioner was given a weekly off on 29.11.2013. It was only in the forenoon of 29.11.2013, that the authorities had requested one HC/GD



W.P.No.20289 of 2015

WEB COPY

R.P.Singh who was deployed in A shift duty to go to the petitioner's quarters to pass on the message. It is also seen from the order of the revisional authority that the petitioner was not present at his quarters on the said date and the message was given to his wife to ask him to meet the Assistant Commandant and then he has to go to I.S. duty at Vizianagaram. The respondents have decided to not believe the contention of the petitioner that he was at the hospital when R.P.Singh was gone over to the petitioner's quarters. It is also noticed that on the very same evening, the petitioner had met the Sector Commander to receive the movement order.

8. However, the health condition of the petitioner and the fact that he had reported to his superior officer on the very same evening has not been taken note of by the respondents 4 to 6. Further, 29.11.2013 was an official holiday for the petitioner. In the above circumstances, the punishment that has been imposed appears to be disproportionate to a first time alleged charge that the



W.P.No.20289 of 2015

petitioner had not responded to call of his superiors immediately.

The respondents could have warned the petitioner instead of resorting to recovery.

In the light of the above, this writ petition is allowed and the punishment is modified to one of warning. No costs.

23.07.2024

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order
ssa

To

1.The Secretary to Government,
The Union of India,
Ministry of Home Affairs,
New Delhi.

2.The Director General,
Central Industrial Security Force,
No.13, CGO Complex,
Force Head Quarters,
Lodhi Road, New Delhi-110 003.



W.P.No.20289 of 2015

- 3.The Inspector General,
Central Industrial Security Force,
Head Quarters, South Sector,
Chennai Port Trust Campus,
Near War Memorial, Chennai-600 009.
- 4.The Deputy Inspector General,
Central Industrial Security Force,
Head Quarters, South Zone,
D Block, 1st Floor, Rajaji Bhavan,
Besant Nagar, Chennai-600 090.
- 5.The Senior Commandant,
Central Industrial Security Force Unit,
Visakhapattinam Port Trust,
DLB Building, 2nd Floor,
Visakhapattinam Port Area,
Visakhapattinam-530 035.
- 6.The Assistant Commandant,
Central Industrial Security Force Unit,
B-Sector, Visakhapattinam Port Trust,
Visakhapattinam.



WEB COPY



W.P.No.20289 of 2015

P.T.ASHA, J.,

ssa

W.P.No.20289 of 2015

23.07.2024