



W.P.No.60



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.07.2024

Pronounced on : 20.08.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.6088 of 2021

K.Anbu Thanabal

... Petitioner

Vs.

1. The Deputy Inspector General,
Central Industrial Security Force,
South Zone, Head Quarters,
Rajaji Bhavan, Besant Nagar,
Chennai – 600 090.
2. The Deputy Inspector General,
Central Industrial Security Force,
DOS Zone-II, Hqrs, CGO Complex,
Lodhi Road, New Delhi – 110 003.
3. The Commandant,
Central Industrial Security Force Unit,
SDSC, SHAR, Sriharikota,
Nellore District, Andhra Pradesh – 524 124.
4. The Deputy Commandant,
Central Industrial Security Force Unit,
SDSC, SHAR, Sriharikota,
Nellore District, Andhra Pradesh – 524 124.
5. The Assistant Commandant,
Central Industrial Security Force Unit,
SDSC, SHAR, Sriharikota,



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Nellore District, Andhra Pradesh – 524 124.

... Respondents

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned order passed by the 2nd Respondent in his Official Website order dated 5.2.2021 and modified the order of the 5th Respondent issued by the 3rd Respondent in his order No V- 11014/CISF/SHAR/DISC/MIN/R.O/ K.A.T/2020-4939 dated 10.6.2020 and the confirming order of the 5th Respondent by the 4th Respondent in his order No V- 1104/CISF/SHAR/ DISC/MIN/A.O/K.A.T/2020-2502 dated 13.3.2020 and the order of 5th respondent in his order No V- 15014/CISF/SHAR/C-1/DIS/MINOR/KAT/ 2019-12567 dated 30.10.2019.

For Petitioner : Mr.R.Thiyagarajan

For Respondents : Mr.R.Subramanian

ORDER

The brief facts that are relevant for disposal of the Writ Petition are as under:-

While the petitioner was working as Constable/ GD in the Central Industrial Security Force at “A” Coy of CISF Unit SDSC SHAR Sriharikota, the petitioner was subjected to disciplinary proceedings by issuing a Charge-Memo No.11255, dated 27.09.2019 on the ground that the petitioner made arguments in a loud voice, shouted and misbehaved with the lady Inspector for his detailment in



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outpost and also questioned the authority of the said Inspector to conduct request room. Having received the said charge-memo, the petitioner sought for certain information and documents by submitting a representation dated 02.10.2019. In the said representation submitted by the petitioner, he made a request for furnishing a copy of the complaint, if any, submitted by the lady Inspector, with whom the petitioner is alleged to have argued and shouted. The said request was considered, but a copy of the complaint, which was sought by the petitioner was not furnished. Thereafter, the petitioner submitted his explanation requesting for conducting a detailed enquiry under Rule 37(1)(b) of the Central Industrial Security Force Rules, 2001 (hereinafter referred to as 'the Rules, 2001' for short) and also complaining that the information and material sought by the petitioner was not furnished. Thereafter, the 5th respondent passed a final order dated 30.10.2019, imposing the punishment of *“reduction of pay by one stage from R.33,300/- to Rs.32,300/- in the L-4 in the pay matrix of Rs.25,500/- to Rs.81,100/- for a period of one year with immediate effect. It is further directed that during the period of reduction, he will earn increment of pay and that on expiry of this period, the reduction will not have the effect of postponing his future increments of pay”* on the petitioner. Aggrieved thereby, the petitioner filed an appeal before the 4th respondent and the said appeal was rejected by the



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Appellate Authority by an order dated 13.03.2020. Aggrieved thereby, the petitioner filed a Revision before the 3rd respondent and the 3rd respondent concurred that the views of the respondents 4 and 5 and passed an order dated 10.06.2020, taking a lenient view on humanitarian ground, reducing the punishment imposed by the 5th respondent to that of “*Fine to an amount equivalent to his seven (7) days pay*”. It is aggrieved by the said final order passed by the 4th respondent, as confirmed by the 5th respondent and modified by the 3rd respondent, the petitioner approached this Court by filing the present Writ Petition. It is also necessary to notice that after passing of the Revisional Order by the 3rd respondent dated 10.06.2020, the petitioner also raised a grievance on online portal and the said grievance of the petitioner was also rejected by the official website order dated 05.02.2021 and the said order is also challenged in the present Writ Petition incidentally.

2. The respondents filed a detailed counter-affidavit.

3. Heard Mr.R.Thiyagarajan, learned counsel for the petitioner and Mr.R.Subramanian, learned counsel for the respondents and also perused the entire material on record.



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4. The charge framed against the petitioner reads as under:-

"That No. 071024462, Constable/GD K. Anbu Thanabal "A" Coy of CISF Unit SDSC SHAR Sriharikota was detailed for JOP outpost w.e.f. 12.09.2019 to 21.09.2019. On 11.09.2019, he reached at "A" Coy office regarding his detailment in outpost list. At about 1710 hours, he met Lady/Insp/Exe. Kamble C.G. in the middle of the staircase of "A" Coy office/Control Room Building, stopped her and made arguments in loud voice, shouted and misbehaved with the said Inspector for his detailment in outpost. He also vehemently argued questioning the authority of the said Inspector to conduct request room. The above act of No. 071024462, Constable/GD K. Anbu Thanabal amounts to gross indiscipline, misconduct and an act of unbecoming a member of Armed Force of the Union. Hence, the charge."

5. From the perusal of the reply submitted by the petitioner while answering the charge, it is evident that the petitioner has denied the charge in its entirety, besides contending that the charge is vague and no particulars are furnished. He also made a specific request for conducting an enquiry, as contemplated under Rule 37(1)(b) of the CISF Rules, 2001. In addition to the same, the petitioner



also, in detail, explained the events that had taken place when the alleged incident took place resulting in initiation of disciplinary proceedings, including the process of involving other officers at the instance of the lady Inspector etc.,

6. A perusal of the said explanation shows that the petitioner has explained the entire incident from time to time with great precision. The request made by the petitioner to furnish a copy of the complaint made by the lady Inspector, which is the basis for framing charge against the petitioner is refused to be furnished on the ground that the petitioner has gone through the said complaint during the course of preliminary enquiry and gave his statement. The request made by the petitioner to furnish the statements that were recorded during the course of preliminary enquiry were also refused to be furnished on the ground that there is no provision under the Rules to provide the said documents. It is not in dispute that it is the complaint made by the lady Inspector, which is the basis for framing charge against the petitioner.

7. From the perusal of the final order dated 17.10.2019 passed by the 5th



respondent, it is noticed that the incident of the petitioner coming across the lady Inspector on the stair-case and the subsequent events including the conversation that had transpired between the lady Inspector and the petitioner and the participation of the some other officers in the said conversation is admitted. The relevant observations made by the 5th respondent in the final order reads as under:-

“When the Lady/Insp/Exe. Kamble C.G., was coming down, the charged official coming up to half of the staircases where stopped her and starting arguing with her on the way itself. It is observed that when Lady/Insp/Exe. Kamble C.G., was busy in some official work at Control Room regarding DIG visits. Due to which all officer and supervisory staff are busy in the work, then the charged official should have waited for her at Coy office, But he stopped her in the middle of the staircase and made argument in loud voice regarding of JOP outpost detailment. He was also used the vulgar words. Behaviour of the charged official was very aggressive at that time. As he was standing in the middle of the passages, then Lady Insp/exe Kamble C.G asked the charged official to give way to go to Coy office because she was going there to listen the problems only Seeing the behaviour of the charged official, Lady/Insp/Exe. Kamble C.G., directed him to come to her



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office. As soon as she reached at Coy office, that time charged official rushed very firstly and hurriedly following her very urgently. Thereafter Coy Commander told him to come alongwith the CHM. After some time, he came at Coy office alongwith CHM. During this time she told him to keep his mobile phone (Android Phone) outside in the locker or at any place and then come to Coy office with CHM. In which the charged official completely denied to keep the phone outside and shouted at her that, "mera phone chori ho jayga". From the above discussion, it is very clear that the charged official denied to proceed to outpost duty and forcible called his Coy Commander to knows his detailment and asked about the seniority for detailment of personnel for out post duty. The charged official met each other in the middle of the staircase where Lady Inspector/Exe Kamble C,G was stopped by the charged official in the middle of the staircase and made argument with his Coy Commander regarding his detailment of JOP out post. Instead of obeying the orders regarding his detailment to outpost duty, the charged official forcible stopped his Coy Commander in the middle of the staircase and argued with her in loud voice. It shows that the charged official failed to obey the orders issued to him regarding his detailment for out post and argued with his Coy Commander by stopping in the middle of the staircase. Further he is habitual in



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disturbance of Unit administration and creates administrative problems by submitting many type of application/representation on various occasions against the Unit administration. Such type of behavior is not acceptable in a Disciplined Armed Force like CISF. As such I hold him the guilty of the charge.”

From the perusal of the above, it is noticed that the 5th respondent has made certain observations which go beyond the scope and ambit of the charge that was framed against the petitioner. There was no charge of usage of vulgar words by the petitioner, as seen from in the charge. Further, the 5th respondent also proceeded to observe stating that the petitioner is habitual in disturbance of Unit Administration and creates administrative problems by submitting many type of applications/ representations on various occasions against the Unit Administration. Further, the above extracted observations also makes it clear that the CHM also participated in the discussion between the petitioner and the lady Inspector. The 5th respondent, except concluding that the petitioner has argued with the lady Inspector on the staircase, has not given any reason, as to on what basis the 5th respondent is arriving at such a conclusion. From the above observations, as reflected in the final order, it appears that the 5th respondent is mostly carried away by the alleged habitual conduct of the petitioner in



submitting applications/ representations to the Unit Administration and the same appears to be the root-cause for imposing the punishment in question against the petitioner. Perhaps, it is only on noticing that the punishment imposed on the petitioner is harsh, the 3rd respondent has reduced the punishment to that of "*Fine to an amount equivalent to his seven (7) days pay*", though calling it on the ground of humanitarian consideration etc.,

8. When the petitioner made a specific request for conducting an enquiry under Rule 37(1)(b) of the Rules, 2001 and to afford him an opportunity to disprove the charge, especially in the context of the fact that the petitioner has denied the charge in so many terms by way of submitting reply, it is incumbent upon the 5th respondent/ disciplinary authority to afford an opportunity by conducting an enquiry into the matter. No doubt, Rule 37(1)(b) of the Rules, 2001 gives discretion to the disciplinary authority on the aspect of conducting an enquiry under Sub-Rules 3 to 22 of Rule 36, but in a case where the charge was denied categorically and the delinquent employee requests for an enquiry to be conducted, it is not open for the disciplinary authority to pass orders imposing the minor penalty without there being any proof of charge against the petitioner. If mere allegation made against the petitioner itself is to be treated as a proof of the



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charge by simply reproducing the contents of the charge as finding of fact, the very purpose of affording an opportunity of submitting a reply and the provision provided under Rule 37(1)(b) of the Rules, 2001 providing for conducting an enquiry in case of proceedings initiated for imposing minor penalty becomes redundant. It is only in case, if the delinquent employee directly or indirectly admits the charge or having admitted charge tried to explain his conduct in committing such misconduct or otherwise or there is no specific or direct denial of the charge levelled against the petitioner, the disciplinary authority may proceed to pass orders imposing the penalty without going for conducting an enquiry. But in the nature of cases, as the one on hand, the action of the 5th respondent, in not choosing to conduct an enquiry, as contemplated under Rule 37(1)(b) of the Rules, 2001 is a sheer failure on the part of the 5th respondent in exercising its discretion. Though the very same issue was agitated by the petitioner before the respondents 3 and 4 also, they have gone by the strict language used in Rule 37(1)(b) of the Rules, 2001 and proceeded to suppress the contentions of the petitioner on the ground that the power under Rule 37(1)(b) of the Rules, 2001 is at the sole discretion of the disciplinary authority.

9. In the light of the above, in the considered view of this Court, the 5th



respondent failed to exercise his discretion in proper perspective in the fact and circumstances of the case resulting in imposing the punishment on the petitioner.

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No doubt, the 3rd respondent having exercised his revisional powers, reduced the punishment to that of "*Fine to an amount equivalent to his seven (7) days pay*", which is a too minor penalty. But, ultimately whatever be the punishment that was imposed, that is a result of violation of the principles of natural justice and contrary to Rules.

10. Added to this, though the petitioner was appointed as Constable/ GD as early as in the year 2007, there is no allegation of any misconduct on the part of the petitioner till the charge-memo in question was issued on 27.09.2019 i.e., almost for a period of 12 years. In a normal course, this Court after having arrived at a conclusion that the respondents have failed to follow the procedure that is required to be followed to hold that the charge is proved against the petitioner, will remand the matter back to the appropriate authority for reconsidering the case afresh. But in the instant case, considering the fact that the charge itself lacks material particulars as to the date and time as to when the actual incident has taken place and also the fact that the petitioner has taken an objection in that regard at the first instance by submitting his reply to the charge-memo and also



the fact that the nature of punishment that was ultimately imposed on the petitioner is trivial in nature and also taking into consideration the said fact as well as the fact that the petitioner was aged 33 years, when he was first time charge-sheeted, this Court is of the considered view that the issue should be put at rest at this stage itself instead of remanding the matter back for reconsideration.

11. In the light of the above, the impugned order passed by the 5th respondent through final order dated 30.10.2019 passed in Lr.No.V-15014/CISF/SHAR/C-1/DIS/MINOR/KAT/ 2019-12567 as confirmed by the 4th respondent and modified by the 3rd respondent by an order dated 10.06.2020 passed in Lr.No.V-11014/CISF/SHAR/DISC/MIN/R.O/K.A.T/2020-4939 are hereby quashed. The fine amount, if any recovered from the petitioner shall be refunded to the petitioner.

12. Accordingly, the Writ Petition stands allowed. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

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Index : Yes / No

Speaking order / Non-speaking order



Neutral Citation : Yes / No

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MUMMINENI SUDHEER KUMAR, J.

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Pre-Delivery Order made in
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