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WP.No.27550 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2024

CORAM:

THE HONOURABLE MRs.JUSTICE R.KALAIMATHI

WP.No.27550 of 2012

MP.No.2 of 2012

D.Ramakrishnan

Petitioner

Vs

1. The Senior Commandant, CISF Unit, Chennai-1
2. The Deputy Inspector General, South Zone Head Quarters
CISF, Besant Nagar, Chennai-90
3. The Inspector General, CISF South Sector
Chennai-9

Respondents

Prayer:- This Writ Petition has been filed, under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the order passed against the Petitioner by the 1st Respondent dated 26.11.2011 in No.V-15014/Disc/MAJ-DR/2011/7116, imposing reduction of pay by two stages for a period of four years and the orders of the Respondents 2 and 3 dated 14.02.2012 in No.V-11014/DIC/MAR-DR/2012/1520 and 28.06.2012 in No.V-15014/L&R/SS/REV/ SK/2012-216, respectively and to quash the same.

For Petitioner : Ms.K.Varsha

For Respondents : Mr.R.Rajesh Vivekanandhan, Standing Counsel

ORDER

1. This Writ Petition is filed to issue a Writ of Certiorari to call for the records relating to the order, dated 26.11.2011 in No.V-15014/Disc/MAJ-DR/2011/7116, passed by the 1st Respondent and the orders dated 14.02.2012 in



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No.V-11014/DISC/MAR-DR/2012/1520 and 28.06.2012 in No.V-15014/ L&R/ SS/REV/ SK/2012-216 passed by the Respondents 2 and 3 respectively and to quash the same.

2. The facts of the case, led to filing of this Writ Petition are that the Petitioner joined as a Constable in the Central Industrial Security Force (CISF), Ministry of Home Affairs on 09.12.1981 in the I-Unit, BSL, Bokoro Office of the Commandant. Thereafter, he served in various places, namely, CTPS, Chandrapuram, Heavy Water Project, Managuru, Andhra Pradesh and Department of Atomic Engery, Kalpakkam, Tamil Nadu. He was promoted to the post of Head Constable in September 1998. On 10.06.2010, he was transferred to the Office of the 1st Respondent. On 27.10.2011, he was posted at Gate No.1 of "O" Gate Complex of "A" Company "B" Shift duty from 13.00 hours to 21.00 hours. At about 20.45 hours, a Team of Vigilance Officers headed by DIG/SZ lead by Inspector/EX Anjana Krishnan inspected the premises, where they found that the alleged unaccounted money of Rs.400/- was kept in his purse kept inside his bag. For which, a show cause notice was given and after enquiry, the impugned punishment of reduction of pay by two stages for a period of four years was awarded by the impugned order dated 26.11.2011.
3. In the appeal filed as against the same, the said punishment was confirmed by the Appellate Authority/the 2nd Respondent and the revision filed as against



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the same before the 3rd Respondent was also dismissed. Hence, this Writ Petition has been filed.

4. This Court heard Ms.K.Varsha, the learned Counsel for the Petitioner and Mr.Rajesh Vivekanandhan, the learned Standing Counsel for the Respondents.
5. The learned Counsel for the Petitioner submits that the impugned punishment is excessive and that clubbing the second charge, which was already disposed of by the Disciplinary Authority, is an arbitrary one.
6. The learned Standing Counsel for the Respondents, inter alia, contends that based on the report of the Vigilance Team, a charge memo was issued to the Petitioner under Rule 36 of the CISF Rules 2001 on 29.07.2011 and that an enquiry was conducted by following the principles of natural justice and that the impugned order, first cited above, was passed by the 1st Respondent for the proven act of misconduct, which was rightly confirmed by the impugned orders of the Respondents 2 and 3. He would further submit that the Respondent Force has to function on rigorous parameters of discipline and it has to keep up public trust and that the offences, like one mentioned above, have to be seriously viewed and that the punishment imposed is proportionate to the charges levelled against the Petitioner.
7. This Court considered the submissions of the learned counsel on either side and also perused the materials placed on record.



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8. When the Petitioner was mounted for duty at Gate No.1 of “O” Gate Complex of “A” Company “B” Shift duty from 13.00 hours to 21.00 hours, a surprise inspection was carried out by the Vigilance Officers and the Petitioner was found in possession of Rs.400/- in his purse kept inside his bag, which was kept in the drawer of the table used for making entries of the vehicles going out from Gate No.1. It appears that he had declared only a sum of Rs.30/- at the time of reporting duty on 27.10.2011. It is relevant to note that as per OM.No.15098/CISF/CHPT/CI/MISC/2010-644, dated 28.04.2010, a person is required to declare the money brought at the time of mounting for duty in pocket money register with denomination and if any excess money more than the amount declared in the pocket money register is found in possession or nearby vicinity of post, the concerned person shall be liable for strict disciplinary action. The above said act of the Petitioner is a clear violation of the instructions issued in the above said OM, dated 28.04.2010. The Petitioner, during the disciplinary proceedings, took a stand that the alleged amount was kept by his wife and he was totally unaware of the said fact and the said stand was not accepted by the Disciplinary Authority.
9. As regards the above said act of the charged Official/the Petitioner herein, the first charge was framed and the second charge delineates four punishments awarded to the Petitioner on earlier occasions, which are culled out and mentioned here under:-



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S.No	Offence committed	Penalties awarded by the Disciplinary Authority
1	Absent from barrack on 14.04.1985 at about 1930 hours	Censure by Commandant BSL Bokaro vide F.O dated 18.06.1985
2	35 days over stayed from leave with effect from 03.02.1988	Censure by District Collector HWP Manuguru vide F.O dated 15.06.1988
3	Returned to unit line in drunken state and created and unpleasant scene on 26.07.1988	Censure by DC HWP Manuguru vide F.O. Dated 19.08.1988
4	Negligence and misconduct while on duty on 29.05.1990	Withholding of one increment for one year with cumulative effect vide AC DAE Kalpakkam F.O.No.(1086) dated 25/26.09.1990

10.On a perusal of the final order, it is pellucid that from the issuance of the notice to passing of the final order throughout the proceedings, principles of natural justice have been duly followed.

11.As regards the power of the Court relating to judicial review of the order passed by the Disciplinary Authority, the Honourable Supreme Court, in one of its decisions reported in **1995 6 SCC 749 (B.C.Chaturvedi v. Union of India)**, has held as under:-

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary



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authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to re appreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to re appreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In Union of India v. H.C. Goel [(1964) 4 SCR 718 : AIR 1964 SC 364 : (1964) 1 LLJ 38] this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued. (Emphasis Supplied)”

12. In AIR 1963 SC 1723 (State of Andhra Pradesh Vs. S.Sree Rama Rao), a Three Judge Bench of the Honourable Supreme Court has held as under:-

“The High Court under Article 226 of the Constitution is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is not the function of the High Court under its writ jurisdiction to review the evidence, and arrive at an independent finding on the evidence. The High Court may, however interfere where the departmental authority which has held the proceedings against the delinquent officer are inconsistent with the principles of natural justice, where the findings are based on no evidence, which may reasonably support the conclusion that the delinquent officer is guilty of the charge, or in violation of the



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statutory rules prescribing the mode of enquiry, or the authorities were actuated by some extraneous considerations and failed to reach a fair decision, or allowed themselves to be influenced by irrelevant considerations, or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. **If however the enquiry is properly held, the departmental authority is the sole judge of facts, and if there is some legal evidence on which the findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a writ petition. "**

13.In 2020 SCC Online SC 886 (State of Rajasthan Vs. Heem Singh), the

Honourable Supreme Court summed up the law in the following lines:-

"33. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy - deference to the position of the disciplinary authority as a fact finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognized it for long years in allowing for the authority of the court to



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interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to reappraise evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

14.The settled law is that it is the domain of the Appointing Authority/Disciplinary

Authority to decide as to the punishment to be imposed on the Delinquent provided that the punishment is proportionate to the delinquency. If the punishment is disproportionate or shocking the conscience of the Court, the Court should interfere with the same in exercise of powers conferred under Article 226 of the Constitution of India.

15.While awarding the punishment, considering the nature and gravity of the charges, the entire service records of the Petitioner may be looked into. The pivot question is as to whether the punishment inflicted on the Petitioner herein is reasonable and proportionate to the gravity of the proven charges.

16.The Petitioner joined in the services of CISF as a Constable on 09.12.1981 and the impugned order came to be passed on 26.11.2011. Two charges were framed against the the Petitioner as mentioned hereunder:-

"ARTICLE OF CHARGE-I:-



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An act highly prejudicial to the good order, image and discipline of the Force in that No.813430067 HC/GD D.Rama Krishnan who was deployed in 'B' shift duty from 1300 hrs to 2100 hrs on 20.07.2011 at Gate No 01 of "O" gate complex of "A" coy was found in possession of unaccounted money to the tune of Rs.400/- (Rupees four hundred only) on 20.07.2011 at 2045 hrs, when surprise checking carried out by vigilance team of DIG/SZ led by Inspector/Exe Anjana Krishnan. Thus recovery of unaccounted money from the possession of HC/GD D.Rama Krishnan tantamounts to gross misconduct, tarnishing the image of the Force and deliberate violation of lawful order of the superior authority which is unbecoming of a member of the Disciplined Force on the part of HC/GD D.Rama Krishnan Hence, the charge.

ARTICLE OF CHARGE-II:-

An act of gross misconduct and breach of discipline of the Force in that No. 813430067 HC/GD D.RAMA KRISHNAN OF CISF UNIT CH.P.T CHENNAI 'A' Coy of CISF Unit, Ch PT, Chennai had developed an irresistible and incorrigible attitude of committing acts of misconduct and indiscipline and failed to change his attitude and show any improvement in his conduct in spite of being charge sheeted and penalized on Four (04) earlier occasions during his service. This amounts to an act of gross misconduct and reprehensible attitude, which is unbecoming of a member of the Armed Force on the part of No. 813430067 HC/GD D.RAMA KRISHNAN, 'A' Coy CISF Unit, ChPT, Chennai. Hence, the charge."

17. For the said two charges, as per the powers conferred under Rule 32(1)

read with Schedule-I of the CISF Rules, 2001, punishment of "Reduction of pay by two stages from Rs.10,270/-, GP.Rs.2,800/- to Rs.9,520/- G.P.2,800/- in the time scale of pay of Rs.5200-Rs.20,200/- for a period of four years with immediate effect, was awarded. It was further directed that the Petitioner will earn increments of pay during the period of reduction and on expiry of this period, the reduction will not have effect in postponing his future increments of pay to No.813430067 HC/GD D.Ramakrishnan 'C' Coy, of CISF Unit,



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18.As regards the second charge, the Petitioner was awarded with the punishments for the offences committed mentioned therein. Once the penalty was awarded by the Disciplinary Authority for the omissions and commissions, thereafter if again the same details are found in the charges, it would amount to double jeopardy. However, the Appellate Authority has got every right to take into account the penalties awarded to the Petitioner on the earlier occasions.

19.From the said details, it is inferable that on earlier three occasions in the disciplinary proceedings, the Petitioner was awarded with punishment of censure for three times. Fourthly, for the acts of negligence and misconduct

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while on duty on 29.05.1990, he was inflicted with the punishment of withholding of one increment for one year with cumulative effect vide AC DAE Kalpakkam F.O.No.1086 dated 25/26.9.1990. The CISF is an armed force of the Country and it has got the responsibility of guarding Nation's wealth in the Undertakings of the Government through out the Country. Considering the earlier punishments imposed on the Petitioner and the first charge details as it stood given, the above said punishment came to be inflicted on the Petitioner.

20.Based on the aforesaid discussions and the legal position, I am of the



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considered view that there is no perversity in the impugned orders and accordingly, this Writ Petition is liable to be dismissed.

21. In fine, this Writ Petition is dismissed. No costs. Consequently, the connected MP is closed.

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Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

Neutral Citation: Yes/No

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1. The Senior Commandant, CISF Unit, Chennai-1
2. The Deputy Inspector General, South Zone Head Quarters, CISF, Besant Nagar, Chennai-90
3. The Inspector General, CISF South Sector, Chennai-9

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