



WP.No.28790 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.28790 of 2013

Subash Chander, Constable No.902334311

CISF Unit, VTPP Vallur,

Thiruvallur District.

...Petitioner

Vs.

1.The Union of India,

Rep. By the Secretary,
Ministry of Home Affairs,
New Delhi.

2.The Director General,

Central Industrial Security Force,
CISF Headquarters,
Block No.13, CGo Complex,
Lodhi Road, New Delhi.

3.The Inspector General,

North Zone,
Central Industrial Security Force Campus,
Saket, Malvia Nagar Post,
New Delhi-110 017.



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4. The Deputy Inspector General,
North Zone,
Central Industrial Security Force Campus,
Saket, Malvia Nagar Post,
New Delhi-110 017.

5. The Commandant,
Central Industrial Security Force,
Red Fort Unit, New Delhi.

6. The Deputy Commandant
Central Industrial Security Force Unit,
VTPP Vallur,
Thiruvallur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of writ of Certiorarified Mandamus, praying to call for the records relating to the order passed by the 3rd respondent dated 18.10.2012 in his order No.V-11014/Appeal-37/SC Disc/NZ/12-8772 enhancing the punishment ordered by the 4th respondent in his final order No.V1106/NZ/Disc/Show cause -17/s.36/11-325 notice dated 30.05.2012 and quash the same and to direct the respondents and to pay all monetary benefits.

For Petitioner : Mr.K.Sivakumar



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ORDER

Short question that would arise for said consideration in this writ petition is whether the 4th respondent is entitled to pass an order under Rule 54 (1)(b) of CISF Rules 2001 after lapse of period of six months from the date of communication of the order passed by the Disciplinary Authority or not?

The brief facts that are relevant to the disposal of the writ petition are as under:

2.While the petitioner was working as Constable in CISF, the petitioner was subjected to Disciplinary Proceedings under Rule-36 of the CISF Rules basing upon an incident that took place on 29.03.2011 by issuing a charge memo dated 30.04.2010 containing two charges. In furtherance of the said charge memo, enquiry was conducted and finally order was passed by the 5th respondent vide No.1865 dated 12.09.2011 imposing the punishment of "Reduction of pay by one stage from Rs.9700 +2800 (G.Pay) to Rs.9330+2800 in the time scale for a period of



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two years with further direction that he will not earn increment of pay during the period of reduction and that on expiry of this period the reduction will have the effect of postponing his future increment of pay". The petitioner has accepted the said punishment imposed by order dated 12.09.2011 and has not chosen to file any appeal against the same. However, the 4th respondent having come to know about the disciplinary proceedings against the petitioner resulting in imposing the punishment as noted above through proceedings dated 12.09.2011 in exercise of his power under Rule 54 of CISF Rules 2001, suo moto proposed to review the punishment awarded on the petitioner by the Disciplinary Authority and accordingly issued show cause notice bearing No.V-11016/NZ/Disc/Suo-moto-17/R-36/11/143 dated 10.03.2012 proposing to enhance the punishment to that of "Compulsory Retirement from Service with all pensionary benefits as per CCS Pension Rules 1972". In response to the same, the petitioner submitted his representation dated 04.05.2012 and thereafter the 4th respondent passed an order while dropping the proposed punishment of compulsory retirement and enhancing the punishment imposed by the Disciplinary Authority to that



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of "Reduction of pay (pay scale 5200-20200) by two stages from Rs.9700/-+(GP-2800/-) to Rs.8980/-+(GP-2800) in the time scale for a period of two years with further direction that during the period of reduction he will not earn any increment of pay and that on expiry of this period, the reduction will have the effect of postponing his future increments of pay" vide order No.V-11016/NZ/Disc/Suo-moto-17/R-36/11/325 dated 30.05.2012 and the same was served on the petitioner on 16.07.2012.

3. Aggrieved by the said order dated 30.05.2012 the petitioner filed an appeal before the 3rd respondent. The said appeal was rejected by the 3rd respondent by order dated 18.10.2012. It is aggrieved by the said order passed by the 4th respondent dated 30.05.2012 as confirmed by the 3rd respondent by order dated 18.10.2012, the petitioner approached this Court by filing the present writ petition.

4. The Rule 54 of CISF Rules reads as under:

"54 Revision

(1) Any authority superior to the authority making the



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order may either on his own motion or otherwise call for the records of any inquiry and revise any order made under these rules, and may:-

(a) Confirm, modify or set aside the order: or

(b) Confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed: or

(c) remit the case to the authority which made the order or to any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or

(d) pass such order as it may deem fit, within six months of the date of communication of the order proposed to be revised:

PROVIDED that no order imposing or enhancing any penalty shall be made by any revising authority unless the enrolled member of the Force concerned has



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been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clause (i) to (v) of rule 34 or to enhance the penalty imposed by then order sought to be revised to any of the penalties specified in those clauses, and if any, inquiry under rule 36 of Central Industrial Security Force Rules, 2001 has not already been held in the case no such penalty shall be imposed except after an enquiry in the manner laid down in the aforesaid rules."

5.From the perusal of Clause (d) of Rule 54 it is obligatory on the part of the Revisional Authority namely the 4th respondent herein to pass order revising the order passed by the Disciplinary Authority within a period of six months from the date of communication of the order proposed to be revised. As already noted above the order of original punishment imposed on the petitioner is dated 12.09.2011 and whereas, the power exercised under Clause (b) of Rule 54 (1) of CISF Rule 2001



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came to be passed only on 30.05.2012 i.e., after a period of six months.

The period of six months prescribed under Clause (d) of Rule 54 (1) came to be an end on 11.03.2012 and whereas the 4th respondent passed an order only on 30.05.2012. Therefore, it is evident that the 4th respondent passed the order dated 30.05.2012 after expiring six months time. Therefore, 4th respondent cease to have power or Authority to exercise the power of revision in terms of Rule 54 (1) (b) of the Rules 2001. On this ground alone the impugned order dated 30.05.2012 is liable to be set aside. Though an appeal was filed by the petitioner against the said order dated 30.05.2012 before the 3rd respondent, the 3rd respondent failed to look into this aspect and examine the matter in proper perspective and passed an order dated 18.10.2012 rejecting the appeal filed by the petitioner.

6.In the light of the above, conclusion arrived at by this Court concluding that the 4th respondent herein lacks jurisdiction or power or authority to pass an order under Rule 54 (1) (b) of Rule 2001, after expiry of the period of six months as mandated by Rule 54 (1)(d) of the



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Rule 2001, the impugned orders dated 30.05.2012 as confirmed by the 3rd respondent dated 18.10.2012 are liable to set aside and they are accordingly set aside.

7. In the result, the writ petition stands allowed. No costs.

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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