



W.P.No.33002 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 05.02.2024

CORAM

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.33002 of 2012

K.Kumara Samy

... Petitioner

Vs.

1. The Union of India,
Represented by its
Secretary to the Government,
Department of Home Affairs,
New Delhi.
2. The Director General,
CISF Head Quarters,
No.13, C.G.O. Complex,
Lodhi Road, New Delhi - 110 003.
3. The Inspector General,
CISF head Quarters South Sector,
Chennai Port Trust Campus,
Near War memorial,
Chennai - 600 009.
4. The Deputy Inspector General,
CISF RTC,
Suraksha Campus,
Arakkonam Taluk.



W.P.No.33002 of 2012

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5. The Commandant,
CISF RTC,
Suraksha Campus,
Arakkonam Taluk.

6. The Deputy Commandant,
CISF RTC,
Suraksha Campus,
Arakkonam Taluk.

... Respondents

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 order passed by the 4th respondent, dated 03.05.2012 in his order No.V-15014/CISF/RTC(A)/KKS/Revision/2012/3211, confirming the order passed by the 5th respondent, dated 29.02.2012 No.V-15014/CISF/RTC/(A)/KKS/Appeal/2012/2146 and confirming the order passed by the 6th respondent No.V-15014/CISF/RTC/(A)/KKS/Min/2011/8127, dated 15.12.2011 and quash the same and to direct the respondents to pay all benefits.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.T.V.Krishnamachari,
Central Government Standing Counsel

ORDER

This Writ Petition is filed, seeking to quash the orders passed by the 4th respondent, dated 03.05.2012 in No.V-15014/CISF/RTC(A)/KKS/



W.P.No.33002 of 2012

Revision/2012/3211, confirming the order passed by the 5th respondent, dated 29.02.2012 No.V-15014/CISF/RTC/(A)/KKS/Appeal/2012/2146 and confirming the order passed by the 6th respondent No.V-15014/CISF/RTC/(A)/KKS/Min/ 2011/8127 dated 15.12.2011 and to direct the respondents to pay all benefits.

2. The case of the petitioner is that he joined as a constable in the Central Industrial Security Force (in short CISF) on 01.08.1984 and served upto the year 2012 with the unblemished record for 28 years. While the petitioner was residing in family quarter No.227/D of CISF Family Complex, misbehaved with Mrs.Bharti Desai Gouda W/o. HC/GD Desai Gouda on 13.11.2011 who is also residing in family quarter No.227/C and threatened her in the absence of her husband. Hence, a Charge Memo under Rule 37 of the CISF Rules, dated 29.11.2011 was issued to the petitioner stating that he misbehaved with his neighbours and disturbed the decorum in family quarters. This amounts to gross indiscipline and misconduct on his part. A representation was submitted on 07.12.2011 by the petitioner denying the charges framed against him. The 6th Respondent



W.P.No.33002 of 2012

without considering the representation, has passed the order on 15.12.2011

imposing the punishment of '**with holding of one increment for a period of two years which will not have the effect of postponing his future increment**'. As against the same, the petitioner filed an appeal and the same was rejected by the 5th Respondent / appellate Authority on 29.02.2012. Aggrieved over the same, the petitioner has preferred a revision before the 4th Respondent and the same was also rejected on 03.05.2012 by holding the punishment imposed by the Disciplinary authority on 15.12.2011. Hence, this Writ Petition.

3. Mr.A.S.Mujibur Rahman, learned counsel for the Writ Petitioner would submit that the 6th respondent vide his orders dated 15.12.2011, has given the findings for not accepting the representation that the petitioner allegedly threatened Mrs.Bharti Desai Gouda who is residing at Family Quarters No.227/C and he has also used filthy language against her. But the above said findings are not the part of the charges issued under Rule 37 of the CISF Rules dated 29.11.2011. An appeal was submitted before the 5th respondent on 31.12.2011 and the same was rejected on 29.02.2012.



Thereafter the petitioner made a representation before the 4th Respondent, dated 28.03.2012 and the same was also rejected on 03.05.2012 by the 4th respondent. Then the petitioner was transferred to VPT, Visakhapattinam with effect from 01.12.2012. It is further submitted that after the incident the petitioner was shifted from quarter No.227/D and was allotted to quarter No.227/B.

4. He would further submit that the charges framed against the petitioner is that he indulged in quarrel with the neighbour and hence the Memorandum under Rule 37 of CSIF Rules was issued to the petitioner. The learned counsel would further submit that the 6th respondent without conducting any enquiry, by recording the statement of the Constable S.K.Singh and other neighbours, with respect to the alleged incident occurred on 13.11.2011, by affording an opportunity to the petitioner to cross examine the witness, the impugned order was passed. Hence, the impugned order imposing the punishment without enquiry is highly arbitrary and illegal. Further the alleged incident was not happened during the duty time of the petitioner and it is only a private affair and that the



W.P.No.33002 of 2012

punishment imposed by the 6th respondent is illegal. The petitioner was allotted with another quarters based on the alleged incident and therefore, there is absolutely no necessity to issue a Memorandum in Rule 37 of CISF Rules of the petitioner. He would further submit that that the preliminary enquiry was conducted behind the back of the petitioner and therefore there is a clear violation of Principles of Natural Justice and the orders passed by the disciplinary authority, appellate Authority and the Revisional Authority are liable to be quashed.

5. The counter affidavit is filed by the respondents on 30.05.2013 wherein it has been stated as follows:

5.1. The petitioner misbehaved with the neighbour and disturbed the decorum of family quarters. The misbehaviour of the petitioner especially with Mrs.Bharti Desai Gouda W/o. HC/GD Desai Gouda for which Mr.P.J.Maran, the Sub Inspector of Police Crime and Intelligence Wing, CISF, RTC, Arakkonam has submitted a report stating that at about 10.30. hours on 13.11.2011 Mrs.Bharti Desai Gouda W/o. HC/GD Desai Gouda who was residing in Government Quarter No.227/C Type - II reported that



W.P.No.33002 of 2012

the petitioner who was residing with his family in Government Quarter No.227/D, Type-II, misbehaved with her by using filthy language in the residential area. She also stated that her husband Desai Gouda is on leave and proceeded to his native place on an urgent work. The petitioner unnecessarily harassed the whole family by shouting.

5.2. In accordance with the Rule 37(1(b) of the CISF Rules, 2001, Shri.N.S.Meena, Assistant Commandant, CISF RTC Arakkonam was directed to conduct preliminary enquiry into the incident vide 4th respondent letter No.V- 15014/CISF/RTC(A)/PE/2011/4997 dated 13.11.2011, Pursuant to above direction of the 4th respondent, Shri N.S.Meena, AC has submitted his preliminary enquiry report on 17.11.2011 vide his proceeding No.E 42099/CISF/RTC(A)/P.E/AC/2011/7681 dated 18.11.2011 to the disciplinary authority / 6" respondent/ for necessary action. The said preliminary enquiry officer concluded the matter and observed that a *prima facie* case exist against the petitioner. Hence the averments made in the contents of the representation submitted by the petitioner are



W.P.No.33002 of 2012

specifically denied as incorrect and based on the above preliminary enquiry report, a charge memo to the petitioner dated 29.11.2011 under Rule 37 of the CISF Rules, 2001 was issued to the petitioner and has afforded an opportunity to the petitioner to submit his representation against the action proposed to be taken under the charge memo dated 29.11.2011. Thereafter the petitioner submitted his representation on 07.12.2011, denying the article of charge framed against him. Dissatisfied with the representation of the petitioner dated 07.12.2011 as well as after taking into account the preliminary enquiry report dated 18.11.2011, the 6th respondent had imposed the minor penalty of 'withholding his increment for two years without cumulative effect on 15.12.2011'.

6. Mr.T.V.Krishnamachari, learned Central Government Standing Counsel appearing for the Respondents would submit that the final order has been passed by the disciplinary authority / 6th respondent only after due consideration of the evidence on record and the reply submitted by the petitioner against the charges leveled against him and has awarded the punishment of "Withholding of one increment for a period of two years



W.P.No.33002 of 2012

which will not have the effect of postponing his future increment". The said punishment has been imposed on the petitioner in compliance with the provisions of Rule 43 and Rule 34 (ix) of the CISF Rules, 2001. The petitioner being aggrieved with the above said punishment dated 15.12.2011, preferred an appeal under Section 46 of CISF Rules, 2001 on 31.12.2011 before the appellate Authority, the 5th Respondent herein. After consideration of the appeal petition dated 31.12.2011 in accordance with the provisions of Rule 51 of CISF Rules, 2001, the 5th respondent has rejected the same as devoid of merits vide appeal in No.V-15014/CISF/RTC/(A)/KKS/Appeal/2012/2146, dated 29.02.2012. Further, the 4th respondent by way of revision, has confirmed the penalty imposed vide impugned orders of the 5th and 6th respondent in exercise of the powers conferred upon him under Rule 54 (1)(b) of the CISF Rules, 2001. He would further submit that as a part of the routine procedure, the petitioner has been transferred to CISF Unit, VPT Visakhapatnam on regular transfer vide DIG CISF, RTC, Arakkonam No.E-38014/CISF/RTC(A)/Adm/Posting/12/9542 dated 30.11.2012 with effect from 01.12.2012 .



W.P.No.33002 of 2012

7. Heard Mr.A.S.Munibur Rahman, learned counsel for the petitioner and Mr.T.V.Krishnamachari, learned Central Government Standing Counsel appearing for the Respondent and perused the materials available on record.

8. In the case on hand, the petitioner was working as a Head constable in CSIF and while he was residing at family quarter No.227/D of CISF Family Complex, misbehaved with his neighbour Mrs.Bharti Desai Gouda W/o. HC/GD Desai Gouda on 13.11.2011 who is also residing in family quarter No.227/C. Hence, a Charge Memo under Rule 37 of the CISF Rules, dated 29.11.2011 was issued to the petitioner and the explanation was sought from him and the petitioner also submitted his explanation dated 07.12.2011. Not being satisfied with the explanation given by the petitioner, the enquiry was conducted and the preliminary enquiry report was submitted on 17.11.2011 holding that the charges framed against the petitioner was proved and the punishment was imposed by the 6th respondent on 15.12.2011 'with holding of one increment for a period of two years which will not have the effect of postponing his future increment'.



9. On perusal of the counter affidavit and the order passed by the 5th

respondent dated 29.02.2012 it is seen as under:

"8. ...

....The petitioner is in the habit of frequently quarrelling with neighbouring families in general and with the family of HC/GD Desai Gouda in particular. On earlier occasion he quarreled with HC/GD Desai Gouda by leaving his duty post. For which he was awarded the punishment of pay fine equivalent to five day pay. But the petitioner never rectified himself and continued his activities in quarrelling with neighbours."

10. It can be seen from the above that the petitioner is in the habit of frequently quarrelling with the neighbour in general and in the family of of HC/GD Desai Gouda in particular. Subsequent to the charge memo, the preliminary enquiry was conducted, opportunity was afforded to the petitioner to submit his representation and thereafter only the punishment was imposed on the petitioner by the 6th respondent. Hence, there is no violation of the principles of natural justice and the same was followed by the other respondent authorities while confirming the punishment. The



W.P.No.33002 of 2012

petitioner being a member of a uniformed service, suppose to maintain the decorum. In the instant case, he is failed to do so which amounts to gross indiscipline and violation of Rules and Regulations framed by CISF. The petitioner has not only misbehaved with Mrs.Bharti Desai Gouda W/o. HC/GD Desai Gouda and also abused her with filthy language. It is pertinent to note that this incident is happened when her husband was out of station which shows the ulterior motive of the petitioner with regard to his misbehaviour with Mrs.Bharti Desai Gouda.

11. In this circumstance, the respondents have taken a lenient view and awarded only a minor punishment of 'with holding of one increment for a period of two years which will not have the effect of postponing his future increment' which is a minimum punishment rather than imposing the major punishments of removal / dismissal from service. The said punishment was also confirmed by the appellate and revisional authorities.

12. In view of the above factual matrix of the case, this Court is not inclined to interfere with the orders passed by the respondents authorities.



W.P.No.33002 of 2012

The orders passed by the 4th respondent, dated 03.05.2012 in order No.V-15014/CISF/RTC(A)/KKS/Revision/2012/3211 confirming the order passed by the 5th respondent, dated 29.02.2012 No.V-15014/CISF/RTC/(A)/KKS/ Appeal/2012/2146 and the order passed by the 6th respondent No.V-15014/CISF/RTC/(A)/KKS/Min/ 2011/8127, dated 15.12.2011 is hereby confirmed.

13. In the result, the Writ Petition stands dismissed. No costs.

05.02.2024

Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
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To:

1. The Secretary to the Government,
The Union of India,
Department of Home Affairs,
New Delhi.
2. The Director General,
CISF Head Quarters,
No.13, C.G.O. Complex,



W.P.No.33002 of 2012

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vum

3. The Inspector General,
CISF head Quarters South Sector,
Chennai Port Trust Campus,
Near War memorial,
Chennai - 600 009.
4. The Deputy Inspector General,
CISF RTC,
Suraksha Campus,
Arakkonam Taluk.
5. The Commandant,
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W.P.No.33002 of 2012



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W.P.No.33002 of 2012

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