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W.P.No.3386 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM

THE HONOURABLE MRS. **JUSTICE R.KALAIMATHI**

W.P.No.3386 of 2012

M.Punitha

... Petitioner

vs.

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

2.The Director General,
Central Industrial Security Force,
Head Quarters,
CGO Complex,
Lodhi Road, New Delhi 110 002.

3.The Deputy Inspector General,
Central Industrial Security Force,
Neyveli Lignite Corporation,
Neyveli, Cuddalore District.

4.The Senior Commandant,
Central Industrial Security Force,
Neyveli Lignite Corporation,
Neyveli, Cuddalore District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the



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impugned notice issued by the 4th respondent in his notice No.L.r.E-32099/DOC/Sup.Review/2011-48 dated 06.01.2012 and to quash the same and to direct the respondents to retain the petitioner in the force till the petitioner attains superannuation and to pay all monetary benefits.

For Petitioner : Mr.A.S.Mujibur Rahman

For R1 to R4 : Mr.T.L.Thirumalaisamy
Central Govt.Standing Counsel.

ORDER

Notice in L.R.E.3209/DOC/Sup.Review/2011-48 dated 06.01.2012 which is issued by the fourth respondent is under challenge.

2. The petitioner viz., Sri.G.Perumal, S/o.Govindaraj submits that he joined as Constable in the Central Industrial Security Force on 10.03.1982. He was promoted as Head Constable in the year 2000 and completed his Promotion Cadre Course for the post of Assistant Sub-Inspector. He had 12 years of service left for his superannuation. On receipt of the notice issued by the fourth respondent under Rule 56(i) and Rule 48 of the Central Civil Services (Pension) Rules, 1972, proposing to retire with effect from 06.04.2012. He would further submit that the Appropriate Authority shall record the opinion formed for the proposal to retire prematurely in exercise of



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power conferred under the rules. No such opinion was formed by the Committee in this case, is an arbitrary decision and hence this writ petition.

3. Heard Mr.A.S.Mujibur Rahman, learned counsel appearing for the petitioner and Mr.T.L.Thirumalaisamy, learned Central Government Standing Counsel appearing for the respondents.

4. Mr.Mr.T.L.Thirumalaisamy, learned Central Government Standing Counsel would state that the petitioner had nine punishments in his entire service. The details of punishments and the Grading of Annual Remarks for his entire service period are extracted hereunder:-

1. "Reduction of pay by one stage from Rs. 222/- to Rs.218/- for a period of one year wef.01.09.1985" without cumulative effect for absent from duty post on 2/3.04.85 vide Commandant CISF Unit BSP Bhilai Order No. (908) dated 29/30.08.1985.
2. "Withholding of one increment for a period of one year wef. 01.09.1986" for sleeping on duty with Arms on 3/4.02.1985 vide Commandant CISF Unit BSP Bhilai Order NO. (1277) dated 26.11.1985.
3. "Three days pay fine for intentionally reported sick and managed CISF Unit 05 days Medical rest to avoid Quarter MPT Madras Order No. (602) dated 25 03.1991.
4. "Withholding of one increment for a period of one year without cumulative effect for permitting valuable materials from CISF Area without valid 4. pass/Permit vide DIG(SZ) HQrs Revision Order No. (3768) dated 21.04.1994.
5. Withholding of next increment for a period of two



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years without cumulative effect for using unparliamentary language with employees of Madras Port Trust vide AC. Sector-II MPT Madras final order No.(793) dated 29.04.1993

- 6 "CENSURE for absent himself from the Coy lines on 31.03.1996 without any permission from the competent authority vide CISF Unit VPT Vizag Order No.(4810) dated 15.06.1996
7. "CENSURE" for loss of his personal Identity Card vide AC, CISF Unit Chhatrapathi Shivaji International Airport (CSIA) Mumbai Order No. (2028) dated 21.01.2003
8. "CENSURE" for influence of Political pressure to go on deputation to Tamil Nadu City Police or Tamil Nadu Education Department vide Commandant, CISF Unit ISP Nasik Order No. (4966) dated 02.12.2006.
- 9 "CENSURE for sending a petition on 03.08.2009 relating to Department matter directly to Hon'ble Prime Minister of India without following proper channel while posted at National Industrial Security Academy (NISA) Hyderabad vide Order No. (78) dated 20.02.2010.

Further details regarding Annual Remarks also extracted hereunder:-

S.No.	Period		Grading
	From	To	
01	01.01.1983	31.12.1983	Satisfactory
02	01.01.1984	31.12.1984	Satisfactory
03	01.01.1985	31.12.1985	Satisfactory
04	01.01.1986	31.12.1986	Satisfactory
05	01.01.1987	14.07.1987	Good



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06	15.07.1987	31.12.1987	Average
07	01.01.1988	31.12.1988	Average
08	01.01.1989	31.12.1989	Good
09	01.01.1990	31.12.1990	Average
10	01.01.1991	31.12.1991	Below Average
11	01.01.1992	31.12.1992	Average
12	01.01.1993	30.06.1993	Average
13	01.07.1993	31.12.1993	Very Good
14	01.01.1994	31.12.1994	Good
15	01.01.1995	31.12.1996	Good
16	01.01.1996	31.12.1996	Good
17	01.01.1997	31.12.1997	Very Good
18	01.01.1998	31.12.1998	Very Good
19	01.01.1999	31.12.1999	Very Good
20	01.01.2000	31.12.2000	Very Good
21	01.01.2001	31.12.2001	Very Good
22	01.01.2002	31.12.2002	Good
23	01.01.2003	31.12.2003	Good
24	01.01.2004	06.12.2004	Average
25	01.01.2005	31.12.2005	Good
26	01.01.2006	31.12.2006	Good
27	01.01.2007	31.12.2007	Good
28	01.01.2008	31.12.2008	Average
29	01.01.2009	31.12.2009	Good
30	01.01.2010	31.12.2010	Average

5. Mr.T.L.Thirumalaisamy, learned Central Government Standing Counsel for the respondents would further contend that the petitioner was



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awarded with reduction of pay once, with holding of increments thrice, pay fine once and Censure on four occasions by various Disciplinary Authority of CISF. He would further submit that as regards his grading of annual remarks, he was graded as "Very Good" six times, "Good " for eleven times, "Satisfactory" for four times, "Average" for eight times and " Below Average" for one time.

6. The learned Central Government Standing Counsel would also further contend that in compliance of Rule 48 of the Central Civil Services (Pension) Rules, 1972, three months prior notice before the date on which, the petitioner was required to retire, was duly served on the petitioner. Therefore, the petitioner's case was assessed by the Board constituted at Central Industrial Security Force Unit, NLC, Neyveli on 03.11.2011. The Committee came to a conclusion that the petitioner was not fit to continue his service beyond 30 years of qualifying service and accordingly the impugned notice was served on the petitioner.

7. It appears that during the pendency of this writ petition in M.P.No.1 of 2012, application for interim injunction which was filed by the petitioner was dismissed by this Court on 30.03.2012. Against which, the writ appeal



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was preferred by the petitioner in W.A.No.863 of 2012 and the same was also dismissed on 08.04.2013. Meanwhile, Contempt Petition No.601 of 2013 was filed by the petitioner and it was also dismissed. The operative portion of the said order is extracted hereunder:-

2. In view of the order dated 08.04.2013 passed by this Court in M.P.No.2 of 2013, vacating the interim injunction granted on 20.04.2012 passed in M.P.No.1 of 2012, the above contempt petition stands closed. However, there shall be no order as to costs."

8. Mr.A.S.Mujibur Rahman, learned counsel appearing for the petitioner has raised objection as follows:-

(1) Rule 48 of the Central Civil Services (Pension) Rules, 1972, was not duly complied with.

(2) He had no adverse remarks during the entire period of service namely 30 years.

(3) no opportunity was given to the petitioner after issuance of notice.

For better understanding, fundamental rules – 56(j) and Rule 48 of the Central Civil Services (Pension) Rules, 1972, are extracted hereunder:-

<i>Fundamental Rules 56 Clause (J)</i>	<i>Rule 48 of Central Civil Services (Pension) Rules, 1972,</i>
Notwithstanding anything contained in this rule, the Appropriate Authority	(1) At any time after a Government has completed thirty years'



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shall, if it is of the opinion that it is in the public interest so to do, have the absolute right to retire any Government servant by giving him notice of not less than three months in writing or three months' pay and allowances in lieu of such notice. y

(i) If he is, in Group 'A' or Group 'B' service or post in a substantive, quasi-permanent or temporary capacity and had entered Government service before attaining the age of 35 years, after he has attained the age of 50 years,

(ii) In any other case after he has attained the age of fifty-five years;

(a) he may retire from service, or

(b) he may be required by the Appointing Authority to retire in the public interest and in the case of such retirement the Government servant shall be entitled to a retiring pension.

Provided that -

(a) a Government servant shall give a notice in writing to the Appointing Authority at least three months before the date on which he wishes to retire; and

(b) the Appointing Authority may also give a notice in writing to a Government servant at least three months before the date on which he is required to retire in the public interest or three months' pay and allowances in lieu of such notice:

A thorough perusal of Rule 48 of the Central Civil Services (Pension) Rules, 1972 would explicate that in case of the Government servant who has completed 30 years of qualified service and if he is required to retire in the public interest, then the Appointing Authority may issue notice to the Government servant atleast three months before the date on which, he is required to retire in the public interest or three months' pay and allowances



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in lieu of such notice.

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9. From a perusal of details of punishments awarded to the petitioner, he was awarded with reduction of pay once, withholding of increments thrice, pay fine once and Censure on four occasions . It is also relevant to note that he was graded as “very good” for 6 times.

10. In compliance of 48 clause (J) for retention in service beyond 30 years of qualifying service, the petitioner's case was assessed by the Board constituted at the Central Industrial Security Force Unit, NLC, Neyveli on 03.11.2011 and the Committee, upon consideration of the service records of the petitioner recommended that “ not fit” to continue his service beyond 30 years of qualifying service, pursuant to the recommendations of the said Board, the impugned notice was issued in the light of Circular No.24/2011 by the CISF Head Quarters, New Delhi.

11. The arguments of the learned counsel for the petitioner by relying upon the annual remarks of the petitioner that he has not suffered adverse remarks not even once for his entire service period. It appears that on receipt of the impugned notice, he did not offer any explanation and on 22.04.2012



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an order of pre-mature retirement from service in respect of the petitioner was passed and it was served to the petitioner on the same day. Therefore, based on the assessment of the performance of the petitioner's case by the Board as per the above said circular, the impugned notice was issued. Rule 48 of the Central Civil Services (Pension) Rules, 1972 has also been duly complied with by the 4th respondent.

12. Having suffered the above said punishments, it should not lie in the mouth of the petitioner that his service was unblemished. It is not the case of the petitioner that against the said punishments, appeals were preferred and thus punishments were either set aside or modified to lesser extent. The Committee has perused his entire service records and came to a conclusion that the petitioner after 30 years of service is not fit for the post of Assistant Sub-Inspector of Police.

13. In the facts and circumstances, I am of the considered view that the petitioner has failed to made out his case. Based on the aforesaid discussions, this writ petition stands dismissed. No costs.



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R.KALAIMATHI, J.,

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