



W.A.No.1476 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

W.A.No.1476 of 2021

P.Alagarsamy

.. Appellant

Vs.

1. The Inspector General
CISF Hqrs., South Sector
Opp. War Memorial, Chennai – 600 009.

2. The Deputy Inspector General
CIST Hqrs., South Zone,
Block – D, 1st Floor
Rajaji Bhawan, Besant Nagar
Chennai – 600 090.

3. The Commandant
CIST Unit/Chpt, Diamond Jubilee Building
Opp Post Trust Hospital
Chennai – 600 001.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order in W.P.No.11722 of 2014 dated 07.12.2020.

For the Appellant : Mr.L.Chandrakumar

For the Respondents : Mr.A.Veeramani
Central Government Counsel

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JUDGMENT

(Delivered by the Hon'ble Mr. Justice S.M.SUBRAMANIAM)

The writ appeal has been instituted as against the order dated 07.12.2020 passed in W.P.No.11722 of 2014. The writ petitioner is the appellant before us.

2. The appellant was holding the post of Sub-Inspector in the Central Industrial Security Force at Chennai Port Trust. A Charge memorandum has been issued in proceedings dated 21.11.2011, framing three Article of Charges, which reads as under:

" ARTICLE OF CHARGE – I

An act highly prejudicial to the good order, image and discipline of the Force in that No.724140011 SI/EXE P.Alagar Swamy who was deployed in 'B' Shift incharge as well as Shift incharge of Gate No.1 of "A" coy failed to supervise his subordinates due to which unaccounted money to the tune of Rs.400/- (Rupees Four Hundred Only) was found in possession of HC/GD D/Rama Krishnan of Gate No.1 This act on the part of No.724140011 SI/EXE P.Alagar Swamy shown he failed to keep strict vigil over his subordinates, gross misconduct, negligence, 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. Hence, the charge.

ARTICLE OF CHARGE – II



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An act highly prejudicial to the good order, image and discipline of the Force in that No.724140011 SI/EXE P.Alagar Swamy who was deployed in 'B' Shift duty from 1300 hrs to 2100 hrs on 20.07.2011 as a "B" shift incharge of "A" coy failed to supervise his subordinates due to which 06 numbers of Saudi Arabian made Lux toilet soaps found from the hand bag of ASI/EXE P Thevudu of Gate No.2 on 20.07.2011 at 2045 hrs during surprise checking carried out by vigilance team of DIG/SZ. This act on the part of No.724140011 SI/EXE P.Alagar Swamy to gross misconduct, negligence, 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. Hence, the charge.

ARTICLE of CHARGE – III

An act of gross misconduct and breach of discipline of the Force in that No.724140011 SI/EXE P.Alagar Swamy 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 discipline and failed to change his attitude and show any improvement in his conduct in spite of being charge sheeted and penalized on Fifteen (15) 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.724140011 SI/EXE P.Alagar Swamy "A" Coy CISF Unit, ChPT, Chennai. Hence, the charge."

A perusal of the charge memorandum, we find no infirmity.

3. The appellant denied the charges and an enquiry was



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conducted. The Enquiry Officer submitted his report holding that the charges are held proved. The findings of the Enquiry Officer was accepted by the Disciplinary Authority and a final order of penalty of compulsory retirement from service with immediate effect with 85% pension and gratuity benefits admissible was passed in proceedings dated 21.11.2011. The appellant preferred an appeal and a revision, which were rejected by the Authorities. Thus, the writ petition came to be instituted.

4. *Mr.L.Chandrakumar*, learned counsel for the appellant would submit that though the procedures as contemplated under the Rules were followed, the Disciplinary Authority and the Revisional Authority have failed to consider the quantum of punishment, which is disproportionate to the gravity of the charges. Even the charges framed are untenable in view of the fact that the appellant was holding the post of Sub-Inspector of Police and supervisory lapse in the present case cannot be taken into consideration for imposition of major punishment of compulsory retirement. It may not be



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physically possible for a Sub-Inspector to oversee the activities of the Constables, who are all deployed in multiple gates in Chennai Port Trust. Therefore, the appellant cannot be solely held responsible for such allegations of possession of unaccounted money and Lux Toilet Soaps in excess in numbers.

5. High Court, in exercise of the power of Judicial Review, cannot re-appreciate the documents and evidences considered by the Disciplinary Authority/Appellate Authority/Revisional Authority. The probabilities regarding certain incidents cannot be gone into by the High Court in such nature of allegations. The possession of unaccounted money and possession of Lux Toilet Soaps in excess may be on account of certain corrupt practices, however, this Court need not form any opinion on these factual aspects in disciplinary matters. Preponderance of probabilities are sufficient to punish an employee under service law.

6. High discipline in Central Industrial Security Force is



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maintained. They are deployed in important highly sensitive places and therefore, the High Court, in exercise of the power of Judicial Review, cannot routinely intervene in disciplinary matters. Certain probabilities cannot be arrived based on presumptions and assumptions. It is for the Authorities to look into the the gravity of allegations and accordingly, impose punishment.

7. The Rules of natural justice have been complied with. The Principles, as contemplated under the Discipline Rules, were followed. The appellant participated in the process of enquiry. Thus, we do not find any procedural infirmity in the conduct of the disciplinary proceedings.

8. Regarding the quantum of the punishment, it is not shocking to the conscience of the Court, since, on the face of it, it seems to be certain corrupt practice. However, against the appellant, actions were initiated for supervisory lapse. High Court cannot re-adjudicate those issues to find out the involvement of the appellant



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Sub-Inspector into those allegations. Whether corrupt practices were prevailing on earlier circumstances or not are the matters which are all to be looked into by the competent authority and the Courts have repeatedly held that the High Court cannot sit as an Appellate Authority on material facts or re-appreciate the facts, already considered by the Disciplinary Authority/Appellate Authority and the Revisional Authority.

9. Thus, we are not inclined to interfere with the quantum of the punishment imposed. More so, the appellant is receiving pension, as contemplated, to an extent of 85%. That being the factum, the writ order impugned stands confirmed. Consequently, the writ appeal is dismissed. There shall be no order as to costs.

(S.M.S., J.)

(C.K., J.)

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S.M.SUBRAMANIAM, J.

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