



W.A.No.1742 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

CORAM

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

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

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1. The Director General
Central Industrial Security Force
CISF Head Quarters
Block No.13, CGO Complex
Lodhi Road, New Delhi.
2. The Inspector of Police
Central Industrial Security Force
South Sector, Head Quarters
Chennai Port Trust, Chennai.
3. The Deputy Inspector General
South Zone Head Quarters
Central Industrial Security Force
Rajaji Bhawan, Besant Nagar
Chennai – 600 090.
4. The Commandant
Central Industrial Security Force Unit
Chennai Port Trust
Chennai – 600 001.

.. Appellants

Vs.

P.Thevudu

.. Respondent

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Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 17.02.2020 in W.P.No.30442 of 2011.

For the Appellants : Mr.Venkataswamy Babu
Senior Panel Counsel

For the Respondent : No Appearance

JUDGMENT

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

The writ order dated 17.02.2020 in W.P.No.30442 of 2011 is sought to be assailed in the present writ appeal. The Director General, Central Industries Security Force, is the first appellant herein.

2. The respondent was holding the post of Assistant Sub-Inspector in the Central Industrial Security Force and he was deployed at Chennai Port Trust. The Disciplinary Proceedings were initiated and a charge memorandum was issued in proceedings dated 27.07.2011 framing the following Article of Charge:

"ARTICLE OF CHARGE – I

An act highly prejudicial to the good order, image and discipline of the Force in that No.764450057 ASI/EXE P Thevudu who was detailed in 'B' shift duty from 1300 hrs to 2100 hrs on 20.07.2011 at



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Gate No.2 of "A" Coy was found in possession of 06 numbers of Saudi Arabian made Lux toilet soaps on 20.07.2011 at about 2045 hrs, when surprise checking carried out by vigilance team of DIG/SZ led by SI/EXE J.Kennedy. Thus, recovery of above mentioned 6 numbers of Lux soaps from the possession of ASI/EXE P.Thevudu 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 ASI/Exe P. Thevudu. Hence, the charge."

3. The respondent/delinquent Official denied the charge. Not satisfied with the explanation, the Disciplinary Authority appointed an Enquiry Officer, who in turn, conducted an enquiry by affording opportunity to the parties. The respondent participated in the enquiry proceedings and defended his case. The Enquiry Officer submitted his final report, holding that the charge against the delinquent Official is held proved. Accepting the findings of the Enquiry Officer, the Disciplinary Authority imposed the penalty of compulsory retirement from service with immediate effect with 70% pension and gratuity benefits admissible.

4. The respondent preferred an appeal and the Appellate



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Authority modified the punishment to that of compulsory retirement from service with effect from 28.09.2011 with 70% gratuity and 70% pension for a period of three years. After completion of the punishment period, the respondent would be eligible to receive 100% pension.

5. The punishment orders were challenged by the respondent in the impugned writ petition.

6. The writ Court considered the issues and allowed the writ petition by setting aside the order of punishment and modified the punishment to that of reduction to the lower stage in the time scale of pay, one stage for the period not exceeding three years with cumulative effect.

7. *Mr.Venkataswamy Babu*, learned Senior Panel Counsel for the appellant would submit that modification of punishment by the Writ Court and imposing punishment of reduction to the lower stage in the time scale of pay is not in consonance with the legal principles settled by the Courts.

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8. Disciplinary proceedings were conducted by complying with the Rules of natural justice. The punishment was imposed based on some evidences. The Rules governing the disciplinary proceedings were followed by the Authorities competent. Proved allegations are relating to certain corrupt practices. Therefore, the amount of corruption or the materials seized or the quantity of the materials seized cannot be a criteria for weighing the quantum of punishment imposed by the Competent Authority. Corruption is a corruption, whether it is for Rs.10/- or Rs.10 lakhs. The conduct alone is to be weighed and not the quantum of amount or the materials found in excess, which is to be construed as corrupt practice. Therefore, for the possession of unaccounted money or possession of certain materials, which all are not explained, the Uniformed Service Personnel are liable and accountable.

9. In the present case, possession of six numbers of Saudi Arabian made Lux toilet soaps were seized by the vigilance team during the surprise check carried out. Therefore, the said possession of materials are considered as corrupt practice by the Disciplinary

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Authority, which was confirmed by the Appellate Authority.

10. 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 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.

11. The High Court, in exercise of the powers of Judicial Review, cannot modify the punishment imposed by the Disciplinary Authority, except in certain exceptional cases, where the remand would cause greater hardship to the delinquent Official concerned. In the present case, as the Writ Court has modified the punishment by re-appreciating the evidences, in our opinion, is not in



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consonance with the legal principles settled by the Constitutional Courts across the Country.

12. The power of Judicial Review of the High Court under Article 226 of the Constitution of India has been well enumerated by the Supreme Court of India in the case of ***The State of Rajasthan vs. Heem Singh***¹ and in the case of ***State of Karnataka and Another vs. Umesh***², the Supreme Court of India settled the principles regarding the exercise of judicial review in the matter of departmental disciplinary proceedings by stating that the Court in exercise of judicial review should restrict its review to determine whether;

- (1)The rules of natural justice has been complied with.
- (2)The finding of misconduct is based on some evidence.
- (3)The Statutory Rules governing the conduct of the disciplinary enquiry has been observed.
- (4)The findings of the Disciplinary Authority suffer from perversity.

1 AIR ONLINE 2020 SC 795

2 2022 Live Law (SC) 304



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(5)The penalty is disproportionate to the proven misconduct.
13. In view of the facts and circumstances, we are of the considered opinion that the Writ Court has re-appreciated the facts, which is not in consonance with the Principles. Therefore, we are inclined to interfere. Accordingly, the writ order dated 17.02.2020 made in W.P.No.30442 of 2011 is set aside and the writ appeal stands allowed. Consequently, C.M.P.No.10919 of 2021 is closed.

(S.M.S., J.)

(C.K., J.)

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Index : Yes/No

Neutral Citation : Yes/No

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