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W.P. No.18494 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.18494 of 2021

P.Sahadeva Rao

... Petitioner

Vs.

- 1.The Director General,
Central Industrial Security Force,
Lodhi Road, CGO Compled,
New Delhi.
- 2.The Inspector General
CISF UNIT ASG, APS-II Head Quarters
Devanahalli, Bangalore,
Pin:560 001.
- 3.Dy. Inspector General/CASO,
CISF UNIT ASG,
Meenambakkam,
Chennai-600 027.
- 4.The Commandant,
CISF UNIT, ASG,
Meenambakkam,
Chennai-600 027.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Certiorarified Mandamus of direction to the 2nd respondent to call for the records and quash the order passed by the 2nd



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respondent dated 14-09-2020 through its Letter No. V-11014/APS-II/L&R/Rev-(10/20)-PSR/2020/3425 confirming the order of the 3rd respondent vide appellate order No. V-15014/CISF/ASG (Ch)/Disc/Appeal/PSR/2019/761 dated 18.02.2020 and the order of the 4th respondent in Letter No. V-15014/CISF/ASG(Ch)/DISC/Maj-8/PSR/19/5114 dated 28.10.2019 i.e “reduction of pay by one stage from Rs.29,300/- to Rs.28,400/- in the pay level-3 for a period on one year 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” and to direct the respondents to pay the deducted amount Rs.900/- per month from the salary of the petitioner with effect from November 2019 to till the disposal of this writ petition.

For Petitioner : Mr.P.Prakash Paul

For respondents : Mr.Venkataswamy Babu
Special Panel Counsel,
Government of India

ORDER

While the petitioner was working as Constable/GD in CISF at ASG, Chennai, he was subjected to disciplinary proceedings under Rule 36 of CISF Rules, 2001 (in short 'Rules, 2001') by issuing a charge memo dated 14.05.2019 containing article of charge and it is reads as under:

“CISF NO.105260552 Constable/GD P.Sahadeva Rao, 'C' Coy of CISF Unit ASG Chennai while undergoing Screener Certification Court at ASTI Chennai held from 31.12.2018



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to 18.01.2019 failed to report for the said course on 07.01.2019 at 09.30hrs and remained absent from the course as well as from CISF Unit ASG Chennai without leave being sanctioned by the competent Authority. He reported back to the Unit only on 28.01.2019 on his own after remaining unauthorizedly absent from the course as well as from the Unit w.e.f. 07.01.2019 to 27.01.2019 for 21 days. The above said act on the part of No.105260552 Constable/GD P.Sahadeva Rao of CISF Unit ASG Chennai amounts to gross indiscipline, serious misconduct and dereliction of duty within the meaning of CISF Rules, 2001. Hence, the charge.”

2. Thereafter, the petitioner submitted his explanation on 22.05.2019 denying the charge and hence regular departmental enquiry was conducted under Rule 36 of Rules, 2001 and finally through proceedings dated 28.10.2019 final order was passed imposing the punishment of “Reduction of pay by one stage from Rs.29,300/- to Rs.28,400/- in the pay level-3 for a period of one year 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”. Aggrieved by the same, the petitioner filed an appeal before the 3rd



respondent and the 3rd respondent, having considered the said appeal, rejected the appeal by an order dated 18.02.2020. Aggrieved by the same, the petitioner filed revision petition before the 1st respondent and the 1st respondent by an order dated 14.09.2020 rejected the revision petition filed by the petitioner. It is aggrieved by the said final order of punishment dated 28.10.2019, as confirmed by the appellate and divisional authorities by their orders dated 18.02.2020 and 14.09.2020 respectively, the petitioner approached this Court by filing the present writ petition.

3. The charge against the petitioner is that, he remained unauthorisedly absent from the screener certification course held at ASTI-Chennai from 31.12.2018 to 18.01.2019 and also remained unauthorisedly absent with effect from 07.01.2019 to 27.01.2019 i.e., for a period of 21 days. The said act of the petitioner was alleged to be a course of indiscipline, serious mis-conduct and dereliction of duty within the meaning of CISF Rules, 2001.

4. The brief facts of the case that lead to issuance of the charge



memo dated 14.05.2019 against the petitioner are that, the petitioner while working as Constable in ASG-Chennai submitted a leave application dated 28.12.2018 on the ground of domestic problem for grant of leave from 06.01.2019 to 27.01.2019. But the said application was not considered by the respondent authorities and the petitioner was required to submit a modified leave application for casual leave on 30.12.2018. It is thereafter, the petitioner submitted another leave application on 06.01.2019 seeking sanction of C.L from 07.01.2019 to 27.01.2019 on the ground that the health conditions of his mother is serious.

5. However, the said leave application was also rejected by an order dated 07.01.2019 on the ground that the petitioner was detailed for screener certification course hence leave cannot be sanctioned. In spite of rejection of the said leave applications submitted by the petitioner, the petitioner remained absent from his duty from 07.01.2019 and it is only on 28.01.2019, the petitioner reported back to duty. It is thereafter, the charge memo dated 14.05.2019 was issued against the petitioner initiating disciplinary proceedings.



6. The learned counsel for the petitioner contended that taking care of his mother is also an obligation on his part and any failure on his part to take care of his parents would amount to mis-conduct in terms of various orders issued by the respondents. Therefore, inspite of rejection of his leave application, the petitioner proceeded to his native place for taking care of his mother who was sick. Thus, it is contended that the respondents are not right in framing the charge against the petitioner. According to the learned counsel for the petitioner, had the petitioner not proceeded to his native place to take care of his mother, the petitioner would have been subjected to disciplinary proceedings for not taking care of his mother. He also further contended that the respondents have failed to take into consideration the medical records, dated 06.01.2019 submitted by him relating to his mother and because of the failure on the part of the respondents in not considering the said medical records, the respondents have arrived at an erroneous conclusion that the charge is proved against the petitioner. He further contended that the punishment of reduction in pay of one stage with effect on his future increment is a major punishment and the same is shockingly disproportionate to the charge held proved against the petitioner and therefore, the same needs to be interfered by this Court under Article 226 of the



Constitution of India.

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7. On the other hand, Mr.Venkataswamy Babu, learned Special Panel counsel appearing for the respondents placed reliance on the elaborate counter affidavit filed in the matter and also contended that the respondents have followed the entire procedure during the course of conducting enquiry and it is only after concluding that the petitioner has deliberately remained absent, inspite of rejection of leave applications, and it is only in view of detailing of the petitioner for screener certification course with effect from 31.12.2018 to 18.01.2019, the petitioner was not granted leave. He also further contended that the petitioner was addressed three letters on 11.01.2019, 16.01.2019 and 24.01.2019 requiring the petitioner to report back to the duty, but the petitioner having received the said letter failed to respond. It is only when a person was deputed to approach the petitioner, the petitioner sent a representation through the said person informing the respondents that he would join duty on 28.01.2019. Thus, he contended that the petitioner, being a member of disciplined service, is expected to maintain absolute integrity and discipline. But the petitioner failed to maintain such integrity and therefore, the respondents have rightly imposed the punishment of



“Reduction of pay by one stage from Rs.29,300/- to Rs.28,400/- in the pay level-3 for a period of one year 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” which is commensurate to the charge established against the petitioner.

8. This Court has carefully considered the submissions made on either side and also perused the entire material on record especially the memorandum of charge and the impugned orders passed by the respondents 1 to 3.

9. From the material on record it is noticed that initially the application was submitted by the petitioner for sanction of leave under domestic reasons and when he was asked to submit a fresh application for sanction of C.L, the petitioner mentioned the reason about his mother's illness. Both the applications submitted by the petitioner were rejected and the petitioner is fully aware that he is also detailed in screener certificate course with effect from 31.12.2018 to 18.01.2019. Though the petitioner



continued to work till 06.01.2019, the petitioner failed to participate in the screener certificate course from 31.12.2018 to 06.01.2019. From 07.01.2019, the petitioner remained unauthorisedly absent. Thus, he refused to undergo the screener certificate course for which he was detailed along with certain others through proceedings dated 24.12.2018.

10. From the record it is also noticed that the petitioner was addressed repeated letters on 11.01.2019, 16.01.2019 and 24.01.2019 requiring him to report back to the CISF unit ASG, Chennai, but the petitioner neither responded to such letters nor reported back till 28.01.2019. The medical records stated to have been submitted before the enquiry authority by the petitioner but not considered are placed before this Court, and the same is also perused by this Court. The said medical record is the prescription of his mother dated 06.01.2019 and the blood report dated 06.01.2019 of Life Hospital. The mother of the petitioner appears to have consulted a Physician and diabetician. Except the said prescription dated 06.01.2019, there is no other material that is placed on record. On 06.01.2019, the petitioner has attended his duty and remained unauthorisedly absent from 07.01.2019. If at all the petitioner is to justify the absence on the ground of his mother's illness



he ought to have provided the material to show that he attended his mother's illness with effect from 07.01.2019 till 27.01.2019. Absolutely, there is neither any material placed before this Court to show that the presence of the petitioner was very much necessary during the period 07.01.2019 to 27.01.2019 nor any such plea is taken by the petitioner either in the explanation submitted in response to the charge memo or in the affidavit filed in support of the writ petition. In the absence of any such material there is absolutely no sustainable reasons for the petitioner to remain unauthorisedly absent inspite of repeated letters addressed to him requiring him to report back to ASG, Chennai. These aspects were thoroughly considered by the disciplinary authority, appellate authority and revisional authority in proper perspective in elaborate and impugned orders came to be passed imposing the punishment as noted above.

11. It is settled law that this Court while exercising its jurisdiction under Article 226 of the Constitution of India will not act as an appellate authority against the orders passed by the disciplinary authorities and it is only in the event of any procedural violation or violation of principles of natural justice or violation of Fundamental Rights, this Court would interfere



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and invoke its jurisdiction under Article 226 of Constitution of India. In the instant case, there are no such circumstances exist warranting interference by this Court in its writ jurisdiction.

12. The contention of the learned counsel for the petitioner that the punishment that was imposed through the impugned order is dis-proportionate to the charge held proved against the petitioner is concerned, this Court is unable to accept such contention. The facts and circumstances considering the mis-conduct of the petitioner, this Court is convinced that with the punishment imposed is appropriate in the facts circumstances of the case.

13. In the light of the above, this Court does not find any merit in the writ petition and the same is accordingly dismissed. The connected miscellaneous petitions, if any, shall stand closed. No costs.

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Index : Yes/No
Speaking Order : Yes/No
dpa



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MUMMINENI SUDHEER KUMAR,J.

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