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W.P.No.18344/2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.18344 of 2021

Vishvjit Singh

...

Petitioner

/vs/

1. The Director General
Central Industrial Security Force,
Head Quarters,
CGO Complex, Lodhi Road,
New Delhi – 110 003.
2. The Inspector Genral, APS-II,
South West Head Quarters,
Central Industrial Security Force,
Airport Security Group (ASG),
Kempegowda International Airport,
Bengaluru – 560 300.
3. The Deputy Inspector General / AP-SZ,
Central Industrial Security Force,
South Zone, Head Quarters,
Rajaji Bhavan, Besant Nagar,
Chennai – 600 090.
4. The Senior Commandant,
Central Industrial Security Force Unit,
10th Reserve Battalion,



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Arakkonam,
Ranipet District – 631 152.

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5. The Deputy Commandant,
Central Industrial Security Force Unit,
Aviation Security Group (ASG),
Calicut Airport,
Calicut – 673 647.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records relating to the impugned order passed by the first respondent dated 27.04.2021 in his order No.V-11014/32/2020/L&R/130 confirming the order of the second respondent dated 27.12.2019 in his order No.V-11014/APS-2/Disc/Appl-(10/19)/VS/2019-1526 confirming the order of the third respondent dated 19.08.2019 in his order No.V-15019/L&R/APSZ/Disc/Maj-05/VS/2019/4390 and quash the same and direct the respondents to take the petitioner into the strength of the CISF with all consequential service cum monetary benefits.

For Petitioner ... Mr.R.Thiyagarajan

For Respondents ... Mr.P.R.Ramesh Babu
Special Govt. Pleader



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ORDER

WEB COPY Heard Mr.R.Thiyagarajan, the learned counsel for the petitioner and Mr.P.R.Ramesh Babu, the learned Special Government Pleader for the respondents.

2. The petitioner has filed this Writ Petition challenging the order of first respondent dated 27.04.2021 in Order No.V-11014/32/2020/L&R/130 and to direct the respondents to take the petitioner into the strength of the Central Industrial Security Force (CISF) with all consequential service cum monetary benefits.

3. The petitioner was a Sub-Inspector / Executive in Central Industrial Security Force and working with the fourth respondent unit. He was issued with the charge memo on the allegation that he had accommodated a woman by name Fathima Nisha in his rented accommodation. The said Fathima Nisha committed suicide in the petitioner's rented accommodation on 19.11.2018. When the matter came to light, the petitioner was charged with misconduct for having allowed a



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lady to live with him when his marriage with one Pooja Singh was in subsistence. On the departmental proceedings initiated against the petitioner, charges were proved and the petitioner was imposed with the punishment of removal from service by the first respondent. On the appeal filed by the petitioner before the second respondent, the punishment of removal from service was confirmed.

4. Mr.R.Thiyagarajan, the learned counsel for the petitioner, submitted that the deceased Fathima Nisha was a friend of the petitioner and there was no illegal relationship between her and the petitioner. The petitioner contracted marriage with Pooja Singh and he submitted the marriage related documents to the concerned department.

5. The petitioner who had got the outliving permission with House Rent Allowance from the fifth respondent, was given with the permission for staying with his family. According to the orders issued to the petitioner he should intimate the competent authority and seek permission to stay without family.



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6. A criminal case has been registered subsequent to the death of Fathima Nisha. Enquiry revealed that Fathima Nisha was not the petitioner's friend but she was fully dependent upon the petitioner and he extended all moral, emotional and financial support to her till her death. The respondents 1 and 2 were satisfied with the enquiry report which proved that the petitioner was living with another woman despite he was legally married to someone as per the terms of the outliving order given to the petitioner.

7. The petitioner did not deny the fact that the said Fathima Nisha was living with him. The materials available would show that the petitioner was extending all kinds of moral and financial supports despite he was married to some other person. In fact, Fathima Nisha committed suicide only when the wife of the petitioner had taken steps to live in the work place of the petitioner along with him. In fact Fathima Nisha has already got married but she had chosen to live with the petitioner. The materials have been produced during the departmental enquiry in the form of Photographs to prove the intimacy between the petitioner and Fathima



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Nisha. The petitioner's extramarital relationship which lead to the death of suicide has been considered as a grave indiscipline and misconduct.

8. The learned counsel for the petitioner submitted that in the criminal proceedings initiated against the petitioner no further action has been taken and the same was not considered by the disciplinary authority and appellate authority while imposing the punishment.

9. Even if the petitioner was found to be not punished earlier and no previous disciplinary proceedings has been initiated against him, the charges now proved against the petitioner cannot be a less serious one. Since all the charges have been proved, the first respondent has rightly chosen to impose the punishment of removal from the service. The petitioner who is a member of disciplined service, if found to be unethical and involved in moral turpitude, that cannot be expected to be read so lightly against him. The punishment for removal from service commensurate with the charges proved against the petitioner. This court is not supposed to sit as an appellate authority over the findings of the



disciplinary authority.

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10. In this regard, it is relevant to refer the judgment of the Hon'ble Supreme Court in the case of ***Union of India v. P. Gunasekaran*** reported in ***(2015) 2 SCC 610***, which reads as under:

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge No. I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second Court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a*



fair conclusion by some considerations extraneous to the evidence and merits of the case;

- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- (i) the finding of fact is based on no evidence.*

13. Under Article 226/227 of the Constitution of India, the High Court shall not:

- i. re-appreciate the evidence;*
- ii. interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*
- iii. go into the adequacy of the evidence;*
- iv. go into the reliability of the evidence;*
- v. interfere, if there be some legal evidence on which findings can be based,*
- vi. correct the error of fact however grave it may appear to be;*



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go into the proportionality of punishment unless it shocks its conscience.”

10. In view of the reasons stated above, this Writ Petition is dismissed. No costs.

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

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R.N.MANJULA ,J.

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