



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 04.07.2024

Pronounced on : 31.07.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.19176 of 2021
and
W.M.P.No.20744 of 2021

Avijit Samanta

... Petitioner

Vs.

1. The Deputy Inspector General,
Central Industrial Security Force,
South Zone, Head Quarters,
Rajaji Bhavan, Besant Nagar,
Chennai – 600 090.
2. The Senior Commandant,
Central Industrial Security Force Unit,
VSP, Visakhapatnam,
Andhra Pradesh – 530 031.
3. The Senior Commandant,
Central Industrial Security Force Unit,
4 RB, Amaravathipudur,
Sivagangai District,
Tamil Nadu – 630 301.
4. The Assistant Commandant/ HQR,
Central Industrial Security Force Unit,
4 RB, Amaravathipudur,
Sivagangai District,
Tamil Nadu – 630 301.

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent dated 23.06.2017 in his Order NO.V-11014(1)/16/Rev-AS/Disc./A.S/2017-5698 confirming the order of the 3rd respondent dated 06.10.2016 in his order No.V-5014/CISF/4th RB/Minor/A.S./Disc/2016/4257 confirming the order of the 4th respondent dated 25.07.2016 in his order No.V-15014/CISF/4th RB(S)/Min-/AS 2016/Disc/2271 and quash the same and to direct the respondents to provide all consequential service cum monetary benefits.

For Petitioner : Mr.R.Thiyagarajan

For Respondents : Mr.M.Karthikeyan

ORDER

The petitioner herein was appointed as Constable/GD in Central Industrial Security Force on 12.01.2013 and while he was serving under the respondents 3 and 4, the petitioner was subjected to disciplinary proceedings by issuing a charge-memo dated 16.06.2016 containing a solitary charge. The said charge reads as under:-

*“That No.130402099 Constable/GD Avijit:
Samanta of CISF 4th RB Sivagangai was informed
telephonically by HC/GD M Madhu (BHM) at 2000 hrs*



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on 02.06.16 about his detailment to Belgaum, Karnataka on IS duty pattern and directed him to report at Battalion Kote at 2300 hrs to draw the Arms and Ammins for the said duty. But, he did not report at the battalion Kote and hence HC/GD Vijaya Kumar and Constable/GD Kirupananth were sent to his residence, but ne told them that he would not go on IS duty under any circumstance. A GD entry to this effect was made vide No.2328 dated 02.06.16. His absence was also confirmed during the counting of detailed personnel at the Kote of the battalion by SI/Exe Sandeep Kumar and HC/GD M Madhu. The above act on the part of No.130402099 Constable/GD Avijit Samanta amounts to gross misconduct, indiscipline, disobedience and unbecoming conduct of a member of the disciplined Force.”

In response to the above charge, the petitioner has submitted his explanation on 26.06.2017, but a copy of the said explanation is not placed on record, before this Court. However, a portion of the explanation submitted by the petitioner is extracted in the affidavit filed in support of the Writ Petition. The same reads as under:-

“ Dated 02.06.2016, after completion of my general shift duty ise. orderly duty to AC/JAO,



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A.Kannan sir, at battalion office I went to my residence and during this period of time no information was given to me that I have to proceed on I.S. duty. At about 1132 pm a call was received by me from the mobile number of constable/GD Somanth Kundu but the voice was that of HC/GD M. Madhu who informed me that all the personnel have reported and asked me that why I was not reported but this message was not clear and audible due to which I have dialed the mobile number of BHM but the same was busy. Thereafter, at about 1139 pm the BHM told that as why I was not reported at the battalion for which he asked me the reason and thereafter the BHM couldn't hear my voice and the call was dropped. In the mean time HC/GD Vijay Kumar reached my quarters and informed that I have to report to the battalion office with my motor cycle. After I was convinced my wife and rushed to the Unit line wherein I saw at Quarter Master store, AC Shivendra Sir, Gautham Sir, Senior Commandant and were PA were found present. I was informed to PA about the domestic problem which I being faced and that period of time AC Gautham sir and AC Shivendra sir instructed me to draw the rifle from the Quarter Guard. On that moment Senior Commandant asked me about my problem and I was



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replied that about my wife's 08 months pregnant for which senior Commandant directed to call any one of the family to look after his wife and I replied that this stage no one can reach. Then, Constable Anup Dutta was detailed in his place and the Senior Commandant instructed me to leave for residence.

That, BHM passed the message in time and I have enclosed the details of the mobile call received by me on that day and further requested to exonerate from the charges as not committed any act of disobeyed the order.”

2. The 4th respondent after having received the explanation dated 26.06.2016, having considered the same, passed an order bearing No.V-15014/CISF/4th RB(S)/Min-/AS 2016/Disc/2271 dated 25.07.2016 imposing the punishment of “with holding of one increment for a period of one year which will not have effect on postponing his future increments of pay”. Aggrieved by the said order dated 25.07.2016, the petitioner filed an appeal before the 3rd respondent and the 3rd respondent by an order dated 06.10.2016 rejected the appeal. Aggrieved thereby, the petitioner preferred a revision before the 1st respondent and the same was also rejected by the 1st respondent by an order dated 23.06.2017. It is aggrieved by the said order



of punishment imposed through proceedings dated 25.07.2016, as confirmed by the orders dated 23.06.2017 and 06.10.2016 passed by the respondents 1 and 3 respectively, the petitioner filed the present Writ Petition.

3. Sri.R.Thiyagarajan, the learned counsel appearing for the petitioner contended that the entire charge framed against the petitioner is false and the petitioner has specifically denied the charge, especially the allegation that the petitioner was informed about the requirement that he should be present at 23:00 hours and therefore, it is obligatory on the part of the disciplinary authority to conduct an enquiry in order to conclude the disciplinary proceedings resulting in imposing the minor punishment. In other words, it is the contention of the petitioner that even in case of disciplinary proceedings initiated for imposing a minor penalty, the respondent/ disciplinary authority is under obligation to conduct an enquiry in case if the charge is denied by the petitioner. He also further contended that in the appeal and the revision petition filed by him before the respondents 1 and 3, the petitioner has specifically made a request for conducting of an enquiry, but the same was not considered by the said respondents. Thus, he contended that the impugned orders came to be passed in violation of the principles of natural



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4. On the other hand, Sri.M.Karthikeyan, learned Government Advocate appearing for the respondents reiterated the contentions raised in the counter-affidavit and also contended that there is no necessity of conducting any enquiry in the case of disciplinary proceedings proposing to impose minor penalties and it is suffice if an opportunity of explaining the charge is afforded to the petitioner.

5. This Court has carefully considered the submissions made on either side and also perused the materials on record.

6. From the perusal of the charge, it is evident that the allegation against the petitioner is that the petitioner though was informed telephonically at 2000 hours at 02.06.2016 about his detailment to Belgaum, Karnataka on I.S Duty pattern and directed him to report at Battalion Kote at 2300 hours to draw the Arms and Ammunitions for the said duty, he did not report to Battalion Kote. It is also further alleged that when two persons viz., Mr.Vijaya Kumar, Head Constable and Mr.Kirupananth, Constable were sent to his residence, the petitioner told them that he would not go on I.S Duty



under any circumstance. As against this charge, though the petitioner submitted his explanation dated 26.06.2016, for the reasons best known, the petitioner has not placed the said explanation before this Court. Hence, this Court is constrained to consider the extract of explanation as re-produced in the affidavit filed in support of this Writ Petition.

7. From the perusal of the above said extract of explanation, it is evident that, as against a specific averment of particular persons informing the petitioner about his duty over phone at 2000 hours, the petitioner instead of responding to the same in specific, simply stated that during his stay at his residence, no information was given to him about the I.S Duty. But surprisingly, as against the specific allegation that he has informed Mr.Vijayakumar and Mr. Kirupananth stating that the petitioner would not go on I.S Duty under any circumstance, the petitioner has not chosen to deny the same though the said two persons coming to the residence of the petitioner was admitted. From the explanation of the petitioner, it is also noticed that the petitioner rushed to the unit line after convincing his wife and also expressed his domestic problem to the officers concerned resulting in detailing another Constable in the place of the petitioner for I.S Duty.



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8. As seen from the explanation submitted by the petitioner, there is no categorical denial of the allegation nor the petitioner has sought for conducting of an enquiry into the matter. The 4th respondent after considering the explanation submitted by the petitioner and the other material, came to the conclusion that the charge alleged against the petitioner was proved and accordingly, proceeded to impose the minor punishment. Admittedly, the Rules governing the disciplinary proceedings pertaining to the minor penalties does not provide as such for conducting of a detailed enquiry. Whether the procedure provided under the relevant Rules provide for detailed enquiry or not in case of a proceeding initiated for imposing minor penalty, it is at the discretion of the disciplinary authority to decide whether enquiry should be held or not. No doubt, on submission of explanation by the delinquent, the disciplinary authority should apply its mind to all the facts and circumstances and the reasons furnished in the explanation and decide whether to hold a detailed enquiry or not. In case, if the delinquent asks for any further information or specific requests for conducting of an enquiry or seeks any opportunity of examining of any witnesses or cross-examining of any witnesses besides denying the charge, in such cases, necessarily the



disciplinary authority may have to exercise its discretion towards conducting a detailed enquiry.

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9. As already noted above, in the instant case, the petitioner has not seriously disputed the charge, but on the other hand failed to deny the charge with all the seriousness nor asked for a detailed enquiry while submitting his explanation to the charge-memo. No doubt, the petitioner claimed to have asked for a detailed enquiry before the revisional authority but that is at a belated stage and if at all the petitioner really intended to face an enquiry, he ought to have sought for the same at the initial stage itself while submitting his explanation to the charge-memo.

10. Yet another reason that weighed with the Court is that the punishment imposed on the petitioner is a minor punishment and the same must have been implemented long back and in case, if the proceedings in question are to be remanded back for the purpose of conducting a detailed enquiry, the same may result in further grave prejudice to the petitioner at this stage.

11. In the light of the above, this Court does not find any error or



illegality in the impugned order dated 25.07.2016 passed by the 4th respondent imposing the punishment in question on the petitioner. Though this Court is of the firm view that it is necessary to conduct a detailed enquiry even in case of disciplinary proceedings pertaining to minor penalty under certain special circumstances as observed above, the same depends upon the facts and circumstances of each case. In the considered view of this Court, the case on hand does not warrant any such detailed enquiry. No doubt the personal reasons furnished by the petitioner in his explanation to the charge-memo may be justifiable on humanitarian consideration, but the same are not the relevant consideration for the disciplinary authority, especially considering the fact that the petitioner is working in a disciplinary service like CISF.

12. As this Court is convinced that the impugned order passed by the 4th respondent dated 25.07.2016 is perfectly valid and is in accordance with law, this Court is not inclined to interfere with the orders passed by the Respondents 1 to 3 as well and accordingly, the Writ Petition is dismissed. No costs. Connected Miscellaneous Petitions, if any shall stand closed

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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MUMMINENI SUDHEER KUMAR, J.

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Pre-Delivery Order made in
W.P.No.19176 of 2021

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