



WEB COPY

W.P.No.1898 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	01.03.2024
Pronounced on	03.04.2024

CORAM:**THE HON'BLE Ms.JUSTICE R.N.MANJULA****W.P.No.1898 of 2021**

UMA KANT, EX. Constable/GD of CISF
10th Reserve Battalion,
Arakkonam.T.N

...

Petitioner

Vs.

1. The Inspector General,
APS-II Head Quarters,
Central Industrial Security Force,
Krishik Bhavan, Bettahalasur-Post,
North Bengaluru District,
Karnataka 562 15.
2. The Deputy Inspector General/ AP-SZ,
Central Industrial Security Force,
Rajaji Bhavan, Besant Nagar,
Chennai 600 090.
3. The Senior Commandant,
Central Industrial Security Force Unit,
10th Reserve Battalion,
Arakkonam,
Ranipet District - 631 152.



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4. The Deputy Commandant,
Central Industrial Security Force Unit,
10th Reserve Battalion,
Ranipet District-631 152.

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Respondents

Prayer: 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 1st respondent dated 27/28.03.2020 in his order No. V-11014/APS-2/L&R/Rev.Pet.(02/20)/U.K/2020/676 confirming the order of the 2nd respondent dated 05.12.2019 in his order No. V-15019/L&R/APSZ/Disc/Appeal- 07/UK/2019/6130 confirming the order of 3rd respondent dated 26.09.2019 in his order No.V-15014/10th RB(A)/Maj-05/UK/2019/4342 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 : M/S.R.Sidharth, CGC

ORDER

Heard Mr.R.Thiyagarajan, learned Counsel for the petitioner and Mr.R.Sidharth, learned Central Government Counsel for the respondents and perused the materials available on records.



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2. A Writ of Certiorarified Mandamus has been filed by the petitioner to challenge the impugned order passed by the 1st respondent dated 27/28.03.2020 in his order No. V-11014/APS-2/L&R/Rev.Pet.(02/20)/U.K/2020/676 confirming the order of the 2nd respondent dated 05.12.2019 in his order No. V-15019/L&R/APSZ/Disc/Appeal- 07/UK/2019/6130 confirming the order of the 3rd respondent dated 26.09.2019 in his order No.V-15014/10th RB(A)/Maj-05/UK/2019/4342 and to direct the respondents to take the petitioner into the strength of the CISF with all consequential service and monetary benefits.

3. The petitioner is an ex-constable/GD of CISF and joined the respondent's organization on 02.06.2017 and he was posted under the 3rd respondent unit from the year 2019. The 3rd respondent issued a charge memorandum to the petitioner alleging that on 11.07.2019, the petitioner had unauthorizedly withdrew a sum of Rs.40,000/- from the SBI Account bearing No.20308807029 of No.170143420 Constable/GD Likesh Kumar Sahu from the SBI ATM located near RTC Arakkonam Main GATE without the consent of the account holder. On the above allegation, the



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petitioner was charged with gross misconduct, indiscipline and unbecoming conduct of a Government Servant. After completion of the enquiry he was awarded with the punishment of removal from service on 13.01.2020. The petitioner filed an appeal and revision petition before the 1st and 2nd respondents, respectively and they also went unsuccessful.

4. Mr.R.Thiyagarajan, learned Counsel for the petitioner submitted that the petitioner had withdrawn the sum as he had the ATM card of his friend Constable/GD Likesh Kumar Sahu with the intention of using it for his emergency and inform him later. It is further submitted that the petitioner had used the ATM card of Likesh Kumar Sahu on an earlier occasion also at his instruction.

5. On the alleged day, the petitioner got a call from his parents and they told about the urgent requirement of money for the medical expenses of his grandfather, who was hospitalized. So there is no ill intention on the part of the petitioner to withdraw the money. The petitioner had suppressed the above fact only in view of its psychological effect on fear; however, he later admitted the truth.



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6. The above submission of the petitioner would only show that he did not deny the fact of using the ATM card of Likesh Kumar Sahu for withdrawing the sum of Rs. 40000/- on 11.07.2019. However, it is claimed by the learned counsel for the petitioner that the punishment of removal from service was too harsh and disproportionate to the charges proved against the petitioner.

7. So far as the intention for withdrawing the amount using the card of another person, it is a question of fact. The enquiry report states that the petitioner had the malafide intention of misappropriating the money drawn from the ATM account of another person without his knowledge or consent. This Court cannot dwell deep into the merits of the findings on facts, as it has been already by both the disciplinary authority and the appellate authority. The rest of the submissions made by the learned counsel for the petitioner are about the quantum of punishment, stating that the punishment is so harsh and disproportionate to the charges proved.

8. No doubt the petitioner is a part of responsible force, which is



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known for its discipline. An act like taking away someone's ATM card for withdrawing money without his knowledge is nothing but stealing money.

For the reasons best known to the respondents or the affected person, no criminal action has been initiated against the petitioner for the alleged occurrence.

9. The members of the CISF force are staying in one hall with beds next to each other. In such close proximity of the circumstances involved in the service conditions attached to CISF, if a member of this service does not have the utmost integrity and honesty, it is difficult for others to co-exist with a person who has such blemishes. Heavy punishment below than dispensing the service of such persons would be harmful to the very department which had engaged his service.

10. The learned counsel for the petitioner submitted that the petitioner's past records were not taken into consideration before issuing the capital punishment of removal from service.

11. The charges of this kind which have been proved against the



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petitioner need not have a previous similar occurrence. Even if this happens once, it is so severe and so serious, and that cannot be any soft riding on the same. Hence, in all facts and probabilities, the punishment of removal from service imposed on the petitioner is appropriate and commensurate with the charges proved against him.

12. It is submitted by the petitioner that the petitioner was in the early stage of his career and hence some indulgence should be shown. It may be true that the petitioner was in the early stage of his career. But that cannot be the only factor for deciding the quantum of punishment. The gravity of the proved charges would outweigh the other circumstances pointed out by the petitioner.

In view of the above state reasons, I do not find any reason to show mercy to the petitioner and hence this Writ Petition stands **dismissed**. No costs.

03.04.2024

Index : Yes/No
Internet : Yes/No



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Speaking/Non-speaking
Neutral Citation : Yes/No

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R.N.MANJULA, J.

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