



Writ Appeal No.1025 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

RESERVED ON : 08.04.2024

PRONOUNCED ON : 24.04.2024

CORAM

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal Nos.1025 of 2021
CMP.No.6422 of 2021**

- 1.The Special Director General/
Airport Sector
Central Industrial Security Force
(Ministry of Home Affairs)
Block No.13, CGO Complex,
Lodhi Road, New Delhi -03.
 - 2.The Deputy Inspector General/Ap-SZ
Central Industrial Security Force,
(Ministry of Home Affairs)
2nd Floor, D Block,
Rajaji Bhavan, Besant Nagar,
Chennai – 600 090.
 - 3.The Senior Commandant
Central Industrial Security Force,
(Ministry of Home Affairs)
CISF, ASG, Chennai.
- ... Appellants
- Vs



Writ Appeal No.1025 of 2021

S.Eknath Ghogle

... Respondent

WEB CO

PRAYERS: Writ Appeal have been filed under Clause 15 of Letter Patent against the order dated 23.09.2020 made in W.P.No.23074 of 2013.

For Appellants : Mr.K.Srinivasa Murthy

For Respondent : Mr.M.Sudhan

JUDGMENT

(Judgment of the Court was made by Mr.K.KUMARESH BABU., J)

This Intra Court Appeal had been preferred as against the order of the learned Single Judge wherein the punishment imposed against the respondent amounts was held to be a dual punishment which is impermissible under law.

2. Heard Mr.K.Srinivasa Murthy the learned counsel appearing for the appellants and Mr.M.Sudhan, the learned Counsel appearing for the sole Respondent.

3. The learned counsel appearing for the appellant would submit that the respondent herein had been proceeded with on the basis of a charge memorandum issued to him wherein two charges have been framed against



Writ Appeal No.1025 of 2021

him. The enquiry officer had held that the first charge was not proved, however the second charge has been conclusively proved and thereafter after following the procedures, the respondent was inflicted with a penalty of reduction of pay by one stage for a period of two years and that he will not earn any increment of pay during the said period of reduction. The same had been confirmed by the Appellate Authority as well as the Revisional Authority. However, the learned Single Judge had erroneously construed that the punishment imposed upon the respondent was a dual punishment namely, a punishment which involved not only reduction in pay, but also had awarded stoppage of increment and therefore, the learned Single Judge had interfered with the order of punishment imposed wherein he had confirmed the reduction in pay scale, but had set aside the stoppage of increment.

4.He would submit that Rule 34 which deals with the services of a staff of the Central Industrial Security Force Rules, 2001 provides for “Nature of Penalties”. Clauses (i) to (v) relate to major penalties and clauses (vi) to (x) deal with minor penalties. Clause (iv) of Rule 34 provides for a punishment reduction in pay scale and also enables the disciplinary au-



Writ Appeal No.1025 of 2021

thority to also postpone the future increments of his pay. The learned Single Judge without looking at the aforesaid provision had held that the punishment imposed upon the respondent was a dual punishment and has modified the punishment which would be covered under clause (Viii) of Rule 34, which is a minor penalty. He also relied upon the Division Bench judgment of this Court in W.A.No.1631 of 2021, dated 08.02.2022. Hence, he would seek interference of the order passed by the learned Single Judge.

5.We have heard the learned counsel appearing for the appellants and perused the materials placed on record.

6.The only *lis* before us is as to whether the punishment that had been imposed upon the respondent amounts to a dual punishment. For better appreciation, it would be relevant to extract the provision particularly clause (iv) of Rule 34 is extracted hereunder:-

34.Nature of penalties:- The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on an enrolled member of the Force, namely:-



Writ Appeal No.1025 of 2021

Major penalties:-

(i).....

(ii).....

(iii).....

(iv) reduction to lower time scale of pay, grade, post or service for a period to be specified in the order of penalty, which shall be a bar to the promotion of the enrolled member of the Force during such specified period to the time scale of pay, grade, post or service from which he was reduced, with direction as to whether or not, on promotion on the expiry of the said specified period:-

(a) the period of lower time scale of pay, grade, post or service shall operate to postpone future increments of his pay, and if so, to what extent; and

(b) the enrolled member of the Force shall regain his original seniority in the higher time scale of his pay, grade, post or service.

7.A co-ordinate Bench of this Court in a similar circumstances while interpreting the said provision and while dealing with clause (iv) and (viii) of Rule 34 had come to a conclusion that the punishment imposed would not be a dual punishment. For better appreciation, the relevant paragraph of the judgment is extracted hereunder:-



Writ Appeal No.1025 of 2021

11. A reading of the provisions of 34 (4A) and 34(A) shows a different picture to the issue on hand. What the learned Single Judge wanted to impose on the petitioner was a minor punishment and when there is a power under rules to impose a major punishment in terms of rule 34(4A) and 34(A) as stated supra, we are of the view that it cannot be construed as double jeopardy in the present case on hand and the learned Single Judge, instead of confirming the punishment has simply modified the same which was imposed by the Disciplinary Authority, confirmed by the Revisional Authority, which has been ultimately upheld by the Appellate authority in the appeal preferred by the writ petitioner and the order of learned Single Judge does not hold good. Hence, we are of the view that the order of the learned Single Judge needs to be interfered with and the order passed by the Disciplinary Authority is restored.

8.The said judgment squarely apply to the facts of the present case. The modification of the punishment imposed would convert the major penalty imposed to a minor penalty. In such view of the matter, we are inclined to interfere with the order of the learned Single Judge.

9.In fine, this Writ Appeal is allowed and the order passed by the learned Single Judge is set aside. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.



WEB COPY



Writ Appeal No.1025 of 2021

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
pbn

(D.K.K.,J.) (K.B., J.)
24.04.2024

D.KRISHNAKUMAR.,J.
and
K.KUMARESH BABU.,J.

pbn

Writ Appeal Nos.1025 of 2021
CMP.No.6422 of 2021



WEB COPY



Writ Appeal No.1025 of 2021

24.04.2024