



W.P.No.26861 of 2021.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2024

CORAM

**THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER
KUMAR**

W.P.No.26861 of 2021

R.Murugan

...Petitioner

Vs.

- 1.The Director General,
Central Industrial Security Force,
Lodhi Road, CGO Complex,
New Delhi.
- 2.The Inspector General,
CISF, South Sector HQrs,
Near War Memorial,
Chennai-600 009.
- 3.The Deputy Inspector General,
CISF Unit NLC-Neyveli,
J.N.Salai, G-14, Block-16,
Cuddalore District, Tamil Nadu,
Pin 607 801.
4. The Senior Commandant
CISF Unit NLC-Neyveli,
Cuddalore District, Tamil Nadu,
Pin 607 801.

...



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Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, directing the respondents to call for records and quash the order of "REMOVAL FROM SERVICE " passed by the 2nd respondent dated 01.10.2021 through its Letter No. V-15016/CISF/SS/L&R/Mur/Rev/2021/12973 confirming the order of the 3rd respondent vide appellate order No.15014/CISF/NLC/Disc/AP/RM/2020/2021-3976 dated 06.08.2021 and order of the 4th respondent in Letter No.V-15014/CISF/NLC/Disc/Maj-(10)/RM/2020/2021-3073 dated 08.06.2021 and reinstate the petitioner with back wages and all service benefits.

For Petitioner : Mr.P.Prakash Paul

For RR1 to R4 : Ms.S.N.Parthasarathi

Senior Central Government
Standing Counsel

ORDER

This petitioner herein was appointed as Constable in Central Industrial Security Force (CISF) on 06.03.2010 and he was subjected to disciplinary proceedings by issuing memorandum of charges bearing No.V-15014/CISF/NLC/Disc/Maj-(10)/RM/2020/3472 dated 26.12.2020, wherein a solitary charge was framed against the petitioner. The charge reads as under:



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"An act prejudicial to good order and discipline of the force on the part of CISF No.104471966 Const/GD R.Murugan of CISF Unit NLC Neyveli, while having a spouse living namely Smt M.Priyadharshini, entered into or contracted marriage with another person i.e., Miss R.Karthika, D/o Shri T.Raja, resident of Kadathur, Dharmapuri Dist, Tamil Nadu. Thus he has committed gross breach of Rule-18 of CISF Rules 2001 and Rule 21 of CCS Conduct Rules and thus rendered himself not suitable for continuation of Govt. Service. This act on the part of No.104471966 Const/GD R.Murugan tantamounts to gross indiscipline, misconduct and unbecoming of member of Armed Force. Hence the charge."

2.From the above, it is evident that the petitioner is alleged to have committed breach of Rule 18 of CISF Rules, 2001 and Rule 21 of CCS Conduct Rules and thereby, rendered himself not suitable for continuation in Government Service. Pursuant to the said charge memo, the respondents conducted regular enquiry, and the 3rd respondent passed final order dated 08.06.2021 imposing the punishment of removal from service with immediate effect. Aggrieved by the same, the petitioner filed an appeal and the 3rd respondent herein, after having considered the



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said appeal, rejected the same, by an order dated 06.08.2021. Aggrieved thereby, the petitioner preferred further revision before the second respondent herein and the said revision petition was also rejected by the Revisional Authority by order dated 01.10.2020. It is aggrieved by the said order of removal from service, as confirmed by the Appellate/Revisional Authorities, the petitioner approached this Court by filing the present writ petition.

3.The respondents have filed a counter affidavit together with typed set of papers.

4.Heard Mr. Mr.P.Prakash Paul, learned counsel for the petitioner at length as well as Ms.S.N.Parthasarathi, learned Senior Central Government Standing Counsel appearing for the respondents and perused the entire material available on record.

5.In order to appreciate the matter in appropriate manner, it is necessary to quote Rule 18 of Central Industrial Security Force Rules, 2001 and Rule 21 of CCS Conduct Rules which reads as under:



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Rule 18 of CISF 2001:

Disqualification-No-person

(a) who has entered into or contracted a marriage with a person having a spouse living; or

(b) who, having a spouse living, has entered into a contracted a marriage with another persons,

shall be eligible for appointment to the Force:

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and there are other grounds for so to do, exempt any person from the operation of this rule."

Rule 21 of CCS Conduct Rules:

21. RESTRICTION REGARDING MARRIAGE:

(1) No Government servant shall enter into, or contract, a marriage with a person having a spouse living; and

(2) No Government servant having a spouse living, shall enter into, or contract, a marriage with any person:



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Provided that the Central Government may permit a Government servant to enter into, or contract, any such marriage as is referred to in clause (1) or clause (2), if it is satisfied that -

(a) such marriage is permissible under the personal law applicable to such Government servant and the other party to the marriage; and

(b) there are other grounds for so doing.

(3) A Government servant who has married or marries a person other than of Indian nationality shall forthwith intimate the fact to the Government

6.The allegation against the petitioner is that he had married one M.Priyadharshini, and contracted a second marriage with one R.Karthika, daughter of Shri. T.Raja resident of Kadathur, Dharmapuri District, Tamil Nadu. During the course of enquiry before the Enquiry Officer, various witnesses have been examined. The enquiry that was initiated by issuing the charge memo dated 26.12.2020 was proceeded by the preliminary enquiry. The statement of the petitioner that was recorded during the preliminary enquiry i.e., on 07.12.2020 was also shown as one of the documents in the list of documents furnished along with the charge memo dated 26.12.2020 in support of the charges framed



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against the petitioner. Though, the learned counsel appearing for the petitioner has drawn the attention of this Court to various statements including the statement of the 1st wife of the petitioner namely Smt. M.Priyadharshini and the alleged second wife namely R.Karthika and their answers during cross examination, this Court does not deem it necessary to refer to such statements in the context of the fact that the petitioner himself, during the preliminary enquiry in his statement that was recorded on 07.12.2020, had categorically admitted his marriage with the said R.Karthika. In the said statement, in response to question No.1, the petitioner has answered as under :

"Ans.01):- There is a misunderstanding going between me and my wife priyadharshini. We are living separately. We are in the process of applying for Mutual Divorce. I have planned to inform the department after getting some legal documents from the Court. But my Marriage planning with R.Karthika is not registered."

Similarly in response to question No.2 the petitioner has answered as under:

"Ans No.2):- We had a formal



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marriage on 15.11.2020 in perumal temple at Agaram in Dharmapuri District in the native place of R.Karthika."

7.The petitioner was asked as to who were all present at the time of his marriage ceremony with R.Karthika. The petitioner has categorically stated that the mother, brother, uncle and aunty of the said R.Karthika were present. Though in answer to Question No.5, the petitioner stated that the function is just an engagement function and planning to perform marriage after getting divorce from his 1st wife Priyadharshini, the same is of no avail, in view of categorical admission by the petitioner that he had contracted a formal marriage with the said R.Karthika on 15.11.2020 itself. Added to this, the said R.Karthika was found residing with the petitioner in Official quarters allotted to him and the first wife of the petitioner has left the house with two female children, three months prior to 07.12.2020. If it is only a formal engagement, the question of the said R.Karthika residing with the petitioner in the official family accomodation allotted to him, does not arise. No doubt, the 1st wife of the petitioner during the course of enquiry in her statement stated that the said R.Karthika is her cousin sister and with her knowledge only,



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she came to their family accommodation and stuck there due to climatic condition, the same was withdrawn by the 1st wife of the petitioner and subsequently, she spoke the truth on enquiry and categorically stated that the petitioner had married the said R.Karthika and filed a divorce application against the petitioner by obtaining her signatures in blank papers.

8.In the light of the admission made by the petitioner about his marriage with R.Karthika during the course of the preliminary enquiry and also in view of the fact that the said statement made by the petitioner was also shown as one of the documents in the list of documents enclosed to the charge memo itself, the same is the document which can be taken into consideration.

9.On the other hand, there is nothing that is brought on record to discard the statement of the petitioner dated 07.12.2020.

10.In the light of the specific and categorical admission made by the petitioner, this Court does not see any reason to disagree with the



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findings that are recorded by the Enquiry Officer, as confirmed by the Disciplinary Authority, Appellate Authority and Revisional Authority holding that the charge framed against the petitioner as proved. This Court is convinced that the charge framed against the petitioner is proved on the admission made by the petitioner himself. Once the charge is held to be proved, the next question that would arise for consideration, and require consideration of this Court is the submission made by the learned counsel for the petitioner on the disproportionality of the punishment of removal from service based on the charge framed against the petitioner. Learned counsel for the petitioner, while contending that the punishment of removal from service imposed on the petitioner is disproportionate to the charge framed against him. He also placed reliance on the decision of **High Court of Madhya Pradesh** in **W.P.No.1723 of 2007** in the case of **Hem Sigh Vs Union of India and others**, dated **21.06.2018** and in the decision of **Gawhathi High Court** in **W.A.No.357 of 2022** in the case of **Union of India Vs.Pranab kumar Nath**. As already noted above, the charge that was framed against the petitioner is under Rule 18 of the CISF Rules, 2001 and Rule 21 of the CCS Conduct Rules. Rule 18 of the CISF Rules provide for disqualification of a person who having a spouse



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living entered into or contract marriage with another person for appointing to the CISF service. Whereas, Rule 21 of CCS Conduct Rules imposed the restriction on a Government Service having a spouse living, from entering into a second marriage with any person. From the above, it is evident that the person who contracted the second marriage during the subsistence of his 1st marriage is disqualified for being appointed to the CISF service.

11. On the other hand, Rule 21 of CCS Conduct Rules put some restriction on the Government servant from contracting second marriage during the subsistence of the 1st marriage. When once it is held that the petitioner has contracted the 2nd marriage while having his spouse living, he becomes disqualified for being appointed to the CISF service. If a person is disqualified for being appointed to the post of CISF service, equally, the said person cannot be said to be eligible to continue in service after his appointment, in case he incurs the very same disqualification as contemplated under Rule 18 of CISF Service. In the instant case, as already observed above, the charge is held to be proved against him and thus, consequently he incurred the disqualification contemplated under



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Rule 18 of the CISF Service. Once the person suffered disqualification of being appointed or to continue in the service, the aspect of proportionality or disproportionality of punishment imposed on the petitioner does not arise. When once it is found that he incurred the disqualification of continuing in the service the petitioner is bound to be removed from service.

12.This Court has carefully perused and considered the decisions of the *High Court of Madhya Pradesh* and *High Court of Gawhathi* and this Court could not follow the said decisions for the simple reason that both the decisions have not considered the effect of Rules 18 and 21 referred to above and once by operation of Rule 18 of CISF, the petitioner incurred disqualification for continuance or appointing to the service, the question of examining the proportionality or disproportionality of the punishment does not arise. Both the above decisions did not take into consideration the above aspect and therefore, this Court is not inclined to follow the above decisions.

13.Further, the scope of interference in the matter of disciplinary proceedings is very minimum and it is only in very limited



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circumstances, such as the punishment is imposed, without there being any evidence or in case evidence is considered in a perverse manner or in case of violation of any procedures or violation of principles of natural justice etc., In the instant case, none of the above are present. On the other hand, the entire matter appears to have been considered elaborately by the Disciplinary Authority as well as the Appellate and Revisional Authorities. Taking into consideration the totality of circumstances of the case, and also the conduct of the petitioner, this Court is not inclined to interfere with the impugned orders passed by the respondents imposing the punishment of removal from service.

14. Accordingly, the writ petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

18.06.2024

vsn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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To

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Lodhi Road, CGO Complex,
New Delhi.

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CISF, South Sector HQrs,
Near War Memorial,
Chennai-600 009.

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MUMMINENI SUDHEER KUMAR, J.

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