



W.A. No.3226 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 08.11.2024

DELIVERED ON: 20.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.3226 of 2024

and CMP. No.24958 of 2024

S.Alex Pandian

.. Appellant

Vs

- 1.The Inspector General,
South Sector Head Quarters,
Central Industrial Security Force,
Chennai – 600 009
- 2.The Deputy Inspector General,
Central Industrial Security Force,
Neyveli Lignite Corporation India Limited, (NLCIL),
Cuddalore.
- 3.The Senior Commandant,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation India Limited, (NLCIL),
Cuddalore.

..Respondents



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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to allow the Writ Appeal to set aside the order of the learned Single Judge made in W.P. No.34976 of 2023 dated 02.01.2024.

For Appellant : Mr.R.Thiyagarajan

For Respondents : Mr.Rajesh Vivekanandan,
Deputy Solicitor General

J U D G M E N T

(Judgment of the Court was made by MR.JUSTICE P.B.BALAJI, J.)

The writ petitioner, aggrieved by the dismissal of WP No.34976 of 2023 by order dated 02.01.2024, is the appellant before us.

2. The appellant, as writ petitioner, challenged the order passed by the Inspector General, South Sector Headquarters, CISF, Chennai, dated 18.06.2021, confirming the order passed by the Deputy Inspector General, CISF Unit, NLC, Kadalur, by order dated 24.12.2020, in and whereby the petitioner was removed from service.



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3. The Writ Court finding no infirmity or illegality in the orders passed by the respondents, dismissed the writ petition.

4. We have heard Mr.R.Thiyagarajan, learned counsel for the appellant and Mr. Rajesh Vivekanandan, learned Deputy Solicitor General, appearing for respondents 1 to 3.

5. The learned counsel for the appellant would submit that only because of the matrimonial disputes that the appellant had with his wife, he was not in a position to report for duty and the overstay on leave by 85 days had been properly explained by the appellant and clearly established before the respondents that it was neither willful nor wanton. However, according to the learned counsel for appellant, the respondents awarded maximum penalty, namely, removal from service, which was totally disproportionate to the charges, which were both concerning only overstay on leave. The learned counsel would therefore pray for the Writ Appeal being allowed, thereby setting aside the order of the Writ Court and consequently, the orders of removal from service passed by the respondents.



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6. Per contra, Mr. Rajesh Vivekanandan, learned Deputy Solicitor

General appearing for the respondents would submit that the petitioner, being a member of the Central Industrial Security Force (CISF), was bound to conduct himself without any indiscipline and both the charges having been proved against the appellant, not only before the Enquiry Officer, but also before the Appellate Authority and confirmed by the Writ Court, there was no interference warranted in Writ Appeal. The learned counsel for the respondents would also place on the decision of this Court in *Swapan Paul vs The Union of India and others* in W.A.No.3035 of 2024 dated 29.10.2024, where we had an occasion to deal with a similar issue of unauthorized absence of about 80 days.

7. We have carefully considered the submissions advanced by the learned counsel on either side and perused the materials available on record including the impugned order.

8. It is not in dispute that the appellant overstayed on leave by 85 days and both the charges framed against him were concerning the said period



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of overstay. The only justification or explanation sought to be offered by the appellant is that because of personal disputes with his wife, he was tortured and harassed and therefore, he was not in a position to report to duty. In fact, on perusal of the second charge, we are also able to notice that the appellant had even during earlier occasions suffered four major penalties and one minor penalty for overstaying leave and for repeat of such overstay, the said charge was framed. With regard to first charge, the appellant was sanctioned with only 15 days of paternity leave from 05.03.2019 to 19.03.2019 and instead for reporting to duty on 20.03.2019, the appellant reported to duty after overstay leave of 85 days (20.03.2019 to 12.06.2019) and citing this as misconduct, indiscipline and unbecoming act of an enrolled member of the Central Armed Police Force of the Union, that is the CISF, the appellant was served with the said charges.

9. The Writ Court exercising jurisdiction under Article 226 of the Constitution of India cannot review the orders passed by the disciplinary authorities, unless the Writ Court finds that there has been deprivation of a fair opportunity to the appellant to meet the charges or where there is



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violation of principles of natural justice. In fact, in *Ex.Sepoy Madan Prasan vs Union of India and others*, reported in 2023 Livelaw SC 580, the Apex Court has come down very heavily when it came to indiscipline in armed forces. The reasons assigned by appellant on overstay of leave for 85 days unauthorisedly was also found unacceptable by the enquiry officer as well as the disciplinary authority including the appellate authority. In such circumstances, the Writ Court has rightly refused to interfere, finding no infirmity or illegality in the orders passed by the respondents.

10. In view of the above, we do not find any merits in the Writ Appeal and consequently, the Writ Appeal fails and is dismissed and connected Miscellaneous Petition is also dismissed. However, there shall be no order as to costs.

(D.K.K.J.) (P.B.B.J.)

20.11.2024

Internet: Yes/No

Index : Yes/No

Speaking Order/Non Speaking Order

rkp



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To

WEB COPY

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Pre-delivery Judgment in
W.A.No.3226 of 2024
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20.11.2024