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W.P. No.25117 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

CORAM:

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

W.P. No.25117 of 2017

Anil Kumar

.. Petitioner

Versus

1. The Union of India
Rep. by its Secretary to the Government,
Department of Home Affairs, New Delhi.
2. The Director General,
CISF Head Quarters,
No.13, C.G.O.Complex,
Lodhi Road, New Delhi – 110 003.
3. The Inspector General
CISF Head Quarters South Sector
Chennai Port Trust Campus,
Near War Memorial,
Chennai - 600 009.
4. The Deputy Inspector General
CISF Head Quarters South Zone
'D' Block first floor Rajaji Bhavan
Beasant Nagar, Chennai – 600 090.
5. The Group Commandant
CISF Group Head Quarters South Zone
'D' Block first floor Rajaji Bhavan
Beasant Nagar, Chennai – 600 090.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India,



W.P. No.25117 of 2017

praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the third respondent dated 26.05.2017 in his revision order No.V-15014/CISF/SS/L&R/Rev/AK/16/2017-6162 dated 26.05.2017 and upheld the order of the fourth respondent dated 22.08.2016 in his appelalte order No.V-11014/32/Disc/DP/SZ/2016-5066 dated 22.08.2016 and confirming the order passed by the fifth respondent dated 11.03.2016 in his final order No.V-15014/GHC/AD.VI/KPL-AK/Maj-/2016-609 dated 11.03.2016 to quash the same and to direct the respondents to take the petitioner into the strength of CISF as a Constable with all monetary benefits.

For Petitioner : Mr.T.Sella Pandian
for Mr.S.Ramajayam

For Respondents : Mr.K.Subbu Ranga Bharathi
CGC

ORDER

The petitioner joined as Constable / GD on 14.07.2012 in the Central Industrial Security Force (in short 'CISF') and while he was working in CISF Unit KPL, Ennore, Chennai, Tamil Nadu, under the control of the fifth respondent, the petitioner was subjected to disciplinary proceedings under Rule 36 of the CISF Rules, 2001 and a charge memo dated 30.10.2015 was issued and corrigendum was also issued thereof on 20.12.2015. In all, two charges are levelled against the petitioner which reads as under:

“ Article of Charge – I



W.P. No.25117 of 2017

CISF No.120718353 Constable / GD Anil Kumar of CISF Unit, KPL, Ennore was deployed in 'C' shift duty from 2100 hrs on 04.10.2015 to 0600 hrs for duty allotment and shift briefing to be conducted by shift In-charge CISF No.130410812 ASI/Exe Raj Kumar. On being allotted him duty post of West Gate through Token No.46, he became furious, agitated and demanded Shift In-charge with audacity to change his duty post from West Gate to other duty post. Despite assurance given by Shift In-charge and started arguing and abusing Shift In-charge with filthy language in a louder voice in an inebriated manner akin to intoxication. Further, he abused CISF No.884522085 HC/GD K Thandugan and manhandled CISF No.933511880 Constable / GD Danveer Singh and CISF No.933512968 Constable / GD P S Solanki when they tried to calm and pacify him. Thus, the above acts on the part of CISF No.120718353 Constable / GD Anil Kumar amount to gross indiscipline, insubordination and disobedience of lawful orders of superior authority and highly unbecoming of a member of a Central Armed Police Force of the Union.

Article of Charge-II

That CISF No.120718353 Constable / GD Anil Kumar of CISF Unit KPL Ennore, in spite of being awarded one minor punishment of willfully violating the lawful orders of the competent authority (i.e.) keeping mobile phone with him on duty and also issued "Warning" for creating nuisance in the Unit line under influence of alcohol, failed to improve his conduct and continued to prove incorrigible. This act on the part of CISF No.120718353 Constable / GD Anil Kumar amounts to gross misconduct, indiscipline and unbecoming of a member of a Central Armed Police Force of the Union."



W.P. No.25117 of 2017

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2. On the above said charges the petitioner was subjected to enquiry and after following the procedure as required under law, the punishment of removal from service was imposed on the petitioner by order dated 11.03.2016. Aggrieved by the same, the petitioner has filed an appeal and revision unsuccessfully before the respondents 4 and 3 respectively. It is aggrieved by the said order of removal dated 11.03.2016 as confirmed by the respondents 4 and 3 through their orders dated 22.08.2016 and 26.05.2017 respectively, the petitioner has filed the present Writ Petition.

3. Heard Mr.T.Sella Pandian, the learned counsel appearing for the petitioner and Mr.K.Subbu Ranga Bharathi, the learned counsel for the respondents and perused the entire material available on record. The learned counsel for petitioner continued his arguments only on the ground of disproportionality of the impugned punishment.

4. From the perusal of the charges levelled against the petitioner and the other materials available on record, this Court is of the considered view that the punishment of removal from service is grossly disproportionate to the alleged charges as against the petitioner. Even if the charges levelled



W.P. No.25117 of 2017

against the petitioner are taken as final and proved also, the order of removal from service is shockingly disproportionate. This Court is forced to come to arrive at such a conclusion by taking into consideration of the fact that the petitioner is aged 23 years when he was subjected to the disciplinary proceedings and completed only 3 ½ years of service by then and he has a long way to go in the service. The respondents ought to have afforded an opportunity to the petitioner to rectify himself by imposing lesser punishment.

5. In view of the above circumstances, the punishment of removal from service imposed through proceedings dated 11.03.2016 as confirmed through proceedings dated 22.08.2016 and 26.05.2017 is quashed and the matter is remanded back to the fifth respondent for considering the matter afresh on the quantum of punishment to be imposed on the petitioner and for passing appropriate orders by duly modifying the punishment and impose punishment other than removal or dismissal or compulsory retirement from service. The fifth respondent is directed to pass appropriate orders as directed above as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. It is also made clear that in case of reinstatement of petitioner into service, the petitioner



W.P. No.25117 of 2017

shall not be entitled to any back wages.

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6. In the result, the Writ Petition is partly allowed. No costs.

22.07.2024

Index:Yes / No
Speaking order / Non speaking order
Neutral Citation Case: Yes / No
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W.P. No.25117 of 2017

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W.P. No.25117 of 2017

MUMMINENI SUDHEER KUMAR, J.

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W.P. No.25117 of 2017

22.07.2024