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W.P.No.34976 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.34976 of 2023

S. Alex Pandian

...Petitioner

-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 Unit,
Neyveli Lignite Corporation India Limited, (NLCIL),
Cuddalore – 607 802.

3.The Senior Commandant,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation India Limited, (NLCIL),
Cuddalore – 607 802.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 1st respondent dated 18.06.2021 in his Order No.V-15016/CISF/SS/L&R/SAP/Rev/2021/8018 confirming the order of the 2nd respondent dated



W.P.No.34976 of 2023

24.12.2020 in his order No.15014/NLC/Disc/Maj-(05)/SAP/2020/8909 confirming the order of the 3rd respondent dated 28.10.2020 in his order No.15014/CISF/NLC/Disc/Maj-(04)/SAP/2020/7482 and quash the same and direct the respondents to take the petitioner into the strength of the CISF service with all consequential service cum monetary benefits.

For Petitioner : Mr.R.Thiyagarajan
For Respondents : Mr.R.Rajesh Vivekananthan
Deputy Solicitor General of India.

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 18.06.2021, thereby confirming the order passed by the second respondent dated 24.12.2020, thereby confirming the order passed by the third respondent dated 28.10.2020, thereby removed the petitioner from service.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner had joined in Central Industrial Security Force as Constable on 06.03.2010. While he was working under the second respondent in the year 2019, he was served with charge memo consisting two charges, which are as follows :-



W.P.No.34976 of 2023

ARTICLE OF CHARGE I: No.105260181

Constable/GD S.Alex Pandian of 'G' Coy., CISF Unit NLC Neyveli was sanctioned 15 days Paternity Leave (PL) w.e.f. 05.03.2019 to 19.03.2019. After expiry of leave, he was supposed to report for duty on 20.03.2019 (FN). But he failed to do so and overstayed leave w.e.f. 20.03.2019 to 12.06.2019 (85 days) unauthorizedly. This act amounts to gross misconduct, indiscipline and unbecoming act of enrolled member of a Central Armed Police Force of the Union i.e. CISF on the part of No.105260181 Constable/GD S.Alex Pandian of "G" Coy., CISF Unit NLC Neyveli. Hence the charge.

ARTICLE OF CHARGE II: CISF No.105260181

Constable GD S.Alex Pandian of 'G' Coy., CISF Unit NLC Neyveli during his past service has been awarded with four major penalties and done minor penalty for over staying leave. Even after being award with 04 (Four) major and 01 (One) minor penalties for OSL. He failed to improve himself and has again overstayed leave

4. However, the petitioner failed to submit any explanation.

Therefore, the third respondent appointed an Enquiry Officer to conduct enquiry. After completion of enquiry, the enquiry report was served to the petitioner. The petitioner replied with objections. On perusal of the



W.P.No.34976 of 2023

enquiry report and the reply submitted by the petitioner reveals that the third respondent awarded punishment of removal from service by an order dated 28.10.2020. The order of punishment was also confirmed by the second and first respondents.

5. The learned counsel for the petitioner would submit that the punishment is disproportionate on the gravity of charges. For the charges, the penalty of removal from service ought not to have been ordered against the petitioner. The petitioner never involved in any grave misconduct, misappropriation or moral turpitude. The petitioner was charged for unauthorised absence, that too, the absence of the petitioner is neither wilful nor wanton otherwise the circumstances compelled him due to personal dispute between the petitioner and his wife. The second charge is concerned, already the petitioner was imposed with one minor punishment and four major punishments similarly to the first charge. Those punishments were awarded to the petitioner, after his marriage, which visibly established that some personal dispute between the petitioner and his wife. The petitioner is only a bread winner of the family. Therefore, he is suffering even for his



W.P.No.34976 of 2023

livelihood and he could not able to maintain his children.

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6. A perusal of the records reveals that the Enquiry Officer conducted a detailed enquiry and held that both the charges proved against the petitioner. During the enquiry, reasonable opportunities were given to the petitioner to prove his innocence, he could not able to defend the charges. The second charge itself revealed that the petitioner was imposed with one minor and four major penalties for overstayed of leave. As per the first charge, the petitioner was sanctioned 15 days as paternal leave with effect from 05.03.2019 to 19.03.2019. After expiry of leave, he ought to have been joined duty on 20.03.2019, whereas, he himself absented duty for 85 days, without any intimation by way of leave letter. This act amounts to gross misconduct, indiscipline and unbecoming act of an enrolled member of the force. That apart, the Appellate Authority found that the charges were proved and confirmed the order of punishment. Hence, the order of removal from service cannot be said that disproportionate to the charges.

7. In view of the above, this Court finds no infirmity or



W.P.No.34976 of 2023

illegality in the orders passed by the respondents. Thus, the writ petition

is devoid of merits and it is liable to be dismissed. Accordingly, this

Writ Petition stands dismissed. No costs.

02.01.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

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WEB COPY



W.P.No.34976 of 2023

Lpp

W.P.No.34976 of 2023

02.01.2024