



W.P.(MD)No.26943 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.11.2024

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**W.P.(MD)No.26943 of 2019**  
**and**  
**W.M.P.(MD)No.23295 of 2019**

Albert Benshiher

... Petitioner

versus

1. The Inspector General of Police,  
Central Industrial Security Force,  
Ministry of Home Affairs,  
Chennai.
2. The Deputy Inspector General of Police,  
Central Industrial Security Force,  
Ministry of Home Affairs,  
DOS Headquarters, Antariksh Bhavan,  
New BEC Road, Bangalore.
3. The Senior Assistant Commenter,  
Central Industrial Security Force,  
Ministry of Home Affairs,  
Central Industrial Security Force Unitm  
VSSC, Thumba,  
Thiruvananthapuram.



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4. The Depot Commandant,  
Central Industrial Security Force,  
Ministry of Home Affairs,  
ONGC, Hazira, Surat,  
Gujarat.

5. The Enquiry Officer,  
Inspector,  
Exe of Central Industrial Security  
Force Unit LPSC,  
Valiamalai.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the document pertaining to the impugned order passed by the 1<sup>st</sup> respondent vide No.V15014/L&R/SS/Rev/AB/2011-480 dated 28.12.2012 confirming the order passed by the 2<sup>nd</sup> respondent vide No.V-11014/CISF/DOS/Appeal-HAB/2012/2285 dated 14.08.2012 and the order passed by the 3<sup>rd</sup> respondent vide final order – 15014/CISF/VSSC/2012 dated 10.05.2012 and quash the same as erroneous and may consequently direct the respondents 1 to 4 to grant all the service and monitory benefits to the petitioner.

For Petitioner : Mr.K.P.Narayanakumar

For R1 to R5 : Mr.C.Nandagopal

### **ORDER**

This writ petition has been filed as against the order of the first respondent dated 28.12.2012, in and by which, the first respondent



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dismissed the revision petition filed by the petitioner, by confirming the order of the appellate authority dated 14.08.2012 and also confirming the order of punishment passed by the 3<sup>rd</sup> respondent, dated 10.05.2012.

2. The petitioner is a Constable working in the Central Industrial Security Force. While he was working at Mahendragiri ISRO, he was issued with a charge memo on 17.12.2011 that he was involved in a criminal case in Crime No.378 of 2011 on the file of the Eraniel Police Station for the offence under Sections 279 and 304(a) IPC. The case of the prosecution in Crime No.378 of 2011 is that the petitioner had caused a fatal accident by driving the vehicle in a rash and negligent manner, on 23.07.2011, at about 11.30 hrs., due to which, a woman, who crossed the road, met with an accident and died in the hospital. The petitioner is said to have taken the deceased to the hospital. However, the petitioner was implicated in the criminal case that due to rash and negligent driving, he had caused this fatal accident. Therefore, he was added as an accused in Crime No.378 of 2011. Based on the criminal case, the 3<sup>rd</sup> respondent has issued a charge memo to the petitioner on 17.12.2011. After conducting an enquiry, the 3<sup>rd</sup> respondent passed a final order on 10.05.2012, imposing the punishment of



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reduction of pay by two stages from Rs.8,870/- to Rs.8,230/-, in the pay band of Rs.5,200 - 2200/- (Grade Pay Rs.2400/-) for a period of two years with effect from the date of issuance of the order. As against the order of punishment, the petitioner has preferred an appeal before the 2<sup>nd</sup> respondent. The 2<sup>nd</sup> respondent, by order dated 14.08.2012, dismissed the appeal confirming the order of punishment passed by the 3<sup>rd</sup> respondent. Aggrieved over the same, the petitioner had preferred a revision petition before the first respondent and the same was also dismissed by the first respondent, by order dated 24.12.2012, confirming the orders of the appellate authority as well as the order of punishment passed by the 3<sup>rd</sup> respondent. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submits that the petitioner was issued with a charge memo, based on the criminal case which was registered as against him in Crime No.378 of 2011. He further submits that on 23.07.2011, at about 11.30 hrs., when the petitioner was returning from his daughter's school, a woman suddenly crossed the road without adhering to traffic rule and fell down on the road. The petitioner had immediately taken the victim to a Hospital, where, she died. He further



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submits that there was no eye-witness to the said occurrence. However, the Eraniel Police Station had registered a case as against the petitioner in Crime No.378 of 2011 that the petitioner, by driving the vehicle in a rash and negligent manner, caused a fatal accident. He further submits that the criminal case registered against the petitioner was ended in acquittal, by Judgment dated 30.05.2019. Therefore, he prays for allowing the writ petition.

4. The learned Standing Counsel appearing for the respondents submits that on 23.07.2011, the petitioner had obtained a day out-pass from the Mahendragiri ISRO to pick up his daughter from the school, at that time, the accident had taken place. According to him, the petitioner, without any driving licence, had driven the vehicle and also caused a fatal accident. The petitioner had also admitted his guilt before the Enquiry officer. Therefore, the petitioner was imposed with a punishment of reduction of pay by two stages from Rs.8,870/- to Rs.8,230/-, in the pay band of Rs.5,200 - 2200/- (Grade Pay Rs.2400/-) for a period of two years with effect from the date of issuance of the order and the punishment is a lenient punishment. He further submits that the petitioner, who is working as Constable, is expected



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to maintain discipline and abide by law. He further submits that challenging the orders of the revisional authority as well as the appellate authority, which were passed in the year 2012, the petitioner has filed this writ petition only in the year 2019, i.e. after a period of eight years. Therefore, the writ petition is liable to be dismissed on the ground of laches.

5. This Court considered the rival submissions and also perused the materials placed on record.

6. Though the learned Standing Counsel appearing for the respondents submits that this writ petition is liable to be dismissed on ground of laches, when the writ petition was listed for admission on 18.12.2019, notice was accepted by the learned Assistant Solicitor General on behalf of the respondents and at that time, this objection was not raised. Therefore, this Court is not inclined to accept the contention of the respondents that this writ petition is liable to be dismissed on the ground of laches.



7. The petitioner had caused a fatal accident on 23.07.2021, for which, a criminal case was registered in Crime No.378 of 2011 and therefore, he was issued with the charge memo dated 17.12.2011 and after the enquiry, he was imposed with a punishment of reduction of pay by two stages from Rs.8,870/- to Rs.8,230/-, in the pay band of Rs.5,200 - 2200/- (Grade Pay Rs.2400/-) for a period of two years with effect from the date of issuance of the order.

8. Admittedly, the petitioner had obtained a day out-pass on 23.07.2011 and went to his daughter's school to pick up her. At that time, he found that a woman met with a road accident and he also admitted the victim in the hospital. The victim had suffered injuries in the road accident. The petitioner claims that he had not driven any vehicle and not caused any fatal accident. Further, there was no eyewitness to the said occurrence. However, the petitioner was fixed as an accused in Crime No.378 of 2011. The petitioner further claims that the criminal case, which was registered against him in Cr.No.378 of 2011, was ended in acquittal, by the Judgment dated 30.05.2019. However, the departmental proceedings were proceeded based on the criminal case which was registered against the petitioner in



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Crime No.378 of 2011.

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9. The final report in Crime No.378 of 2011 was filed in the year 2018, which was taken on file in C.C.No.172 of 2018 and none of the witnesses have spoken that the petitioner caused fatal accident and therefore, the petitioner was acquitted from charges by the Judgment dated 30.05.2019. The disciplinary authority, appellate authority and the revisional authority were not aware of the evidence adduced by the witnesses in C.C.No.172 of 2018.

10. The petitioner was imposed with the punishment only based on the criminal case registered against him. The Enquiry Officer has not examined anybody to find out whether the petitioner had caused the accident in a rash and negligent manner. Considering the peculiar circumstance of the case and also considering the subsequent development in the criminal case, this Court is inclined to allow this writ petition.

11. Accordingly, this writ petition is allowed and the impugned order passed by the 1<sup>st</sup> respondent vide No.V15014/L&R/SS/Rev/AB/2011-480



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dated 28.12.2012 is hereby set aside. The respondents are directed to grant all the service and monitory benefits to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

**08.11.2024**

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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2. The Deputy Inspector General of Police,  
Central Industrial Security Force,  
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**B.PUGALENDHI, J.**

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