HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI

WRIT PETITION NO: 8596 OF 2012

Between:

B.R. Murthy, S/o. Lokya, Aged 43 years, Occ: CISF Constable, Presently Working in the O/o. The Commandant, at BDL., Kanchanbagh, Hyderabad.

...PETITIONER

AND

1. Central Industrial Security Force, Rep. By its Director General CGO Complex, Lodhi Road, New Delhi.
2. The Deputy Inspector General, CISF, South Zone Besant Road, Chennai.
3. The Commandant, CISF., Ramagundam, Karimnagar District, A.P.
4. The Dy. Commandant, CISF., RSTPS., Ramagundam, Karimnagar District, A.P.
5. The Commandant, CISF., BDL., Kanchanbagh, Hyderabad, A.P.
6. The Union of India, Ministry of Home, rep. by Secretary, New Delhi

(R6 is impleaded as per Court Order dt. 20-3-15 in WP.MP.9498 of 15)

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ or Order or direction more particularly one in the nature of Writ of Mandamus i) declare the Final Order dt. 14-08-2011 passed by the 4th respondent in imposing the punishment of WITHHOLDING OF ONE INCREMENT FOR A PERIOD OF ONE YEAR WHICH WILL NOT HAVE THE EFFECT OF POSTPONING OF FUTURE INCREMENTS OF PAY of the petitioner herein, ii) declare the order of the appellate authority i.e. the 3rd respondents order dt. 03-10-2011 and iii) declare the order of the revisional authority i.e. the 2nd respondent herein vide his order dt. 21-02-2012, as illegal, arbitrary, unjust, against the principles of fair-play and natural justice and in violation of Arts.14 and 21 of the Constitution of India and consequently set aside the same.

I.A. NO: 2 OF 2012(WPMP. NO: 10870 OF 2012)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to effect the promotion of the petitioner to the post of Head Constable on par with the others without reference to the impugned order dt. 14-08-2011 passed by the 4th respondent, pending disposal of the writ petition.

I.A. NO: 3 OF 2012(WPMP. NO: 10871 OF 2012)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the impugned Order dt. 14-08-2011 passed by the 4th respondent, pending disposal of the writ petition.

I.A. NO: 1 OF 2017(WPMP. NO: 38219 OF 2017)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to delete the name of the respondent no.6 from the array of respondents in W.P No.8596 of 2012.

Counsel for the Petitioner: SRI B.SHIVA KUMAR
Counsel for the Respondents: SRI GADI PRAVEEN KUMAR, Dy. SOLICITOR GENERAL OF INDIA

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

WRIT PETITION No.8596 of 2012

ORDER:

This writ petition has been filed questioning the order, dated 14.08.2011, by which, the punishment of withholding one annual grade increment without cumulative effect was imposed on the petitioner.

2. Heard both sides and perused the record.

3. Petitioner was appointed as Constable in the Central Industrial Security Force (CISF) on 28.06.1990. On the ground that he disobeyed the order of his superior when he was asked to remove the iron bench from the duty post while he was on duty on 29.03.2010, an inquiry was conducted, and on the ground that the allegation against the petitioner was proved in the inquiry, the impugned order was passed imposing the punishment of withholding one Annual Grade Increment without cumulative effect. The appeal and revision preferred by the petitioner were rejected. Hence, this writ petition.

4. Case of the petitioner is that the punishment was imposed on him inspite of the charge against him was not proved in the inquiry proceedings, as all the witnesses examined by the Inquiry Officer have deposed in his favour. It is his case that when he was ordered to remove the iron bench, he stated to the Inspector concerned that

he was suffering from back pain, and hence, he alone cannot shift the table and sought for assistance of another Constable. Inspite of such request, the Inspector shouted at him and the inquiry proceedings are initiated against him. It is also the case of the petitioner that subsequent to the said incident, he shifted the iron bench with the help of another Constable thus, the petitioner contends that there was no disobedience on his part. It is the further case of the petitioner that the allegation against him was not proved in the inquiry as none of the witnesses have deposed against him. Accordingly, he prayed for setting aside the impugned order of punishment.

5. Respondents have filed counter affidavit stating that the petitioner had disobeyed the orders of the Inspector while on duty on 23.09.2010 by refusing to remove the iron bench from the duty post. It is stated that with regard to the said incident, a preliminary inquiry was conducted and thereafter a regular inquiry was initiated, wherein, the allegation of disobedience was established, and hence, the impugned order of punishment was passed withholding one Annual Grade Increment without cumulative effect. It is further contended that CISF is a disciplined force and hence no disobedience can be tolerated. It is their case that, since the inquiry was conducted as per procedure, there are no grounds to interfere with

the impugned order. Accordingly, the respondents have prayed for dismissal of the writ petition.

6. In this case, the allegation against the petitioner is that he had refused to remove the iron bench from the duty post as directed by his superior/Inspector. It is contended by the petitioner that he did not disobey the order of superior but only sought for assistance of another person as he was suffering from back pain and was unable to shift the iron bench on his own. It has also come on record that the said iron bench was later shifted by the petitioner with the assistance of another Constable. It is further to be noticed that the witnesses examined in the inquiry proceedings did not support the case of the department. PW.1/Inspector deposed that he did not see the petitioner disobeying the orders of superior officer. PW.3/Assistant Sub Inspector stated that the petitioner has not disobeyed the order of the Inspector. Further, PWs.4 and 5, who are Constables, on the other hand, stated that the Inspector himself had abused the petitioner. Thus, none of the persons examined by the department have deposed against the petitioner, and on the other hand they supported his case stating that he did not disobey the orders of Inspector but the Inspector himself had shouted at the petitioner. Inspite of such evidence on record, the Inquiry Officer had recorded findings against the petitioner, which lead to imposition of the present punishment.

7. It is to be noted that pursuant to the interim orders of this Court, impugned order of punishment is stayed and thereafter, the petitioner was promoted as Head Constable and further promoted as Assistant Sub-Inspector. Since the allegation against the petitioner could not be proved by the department through the witnesses examined by them, this Court is of the considered view that the Inquiry Officer ought not to have recorded findings against the petitioner. The appellate and revisional authorities have also mechanically rejected the appeal and revision filed by the petitioner. Hence, the impugned order of punishment is liable to be set aside.

8. Accordingly, this writ petition is allowed setting aside the impugned order, dated 14.08.2011. The order, dated 03.10.2011 passed by the 3rd respondent and the subsequent order, dated 21.02.2012 passed by the 2nd respondent are also set aside. The respondents are directed to extend all consequential benefits to the petitioner as per Rules, within a period of two (02) months from the date of receipt of a copy of this order. No costs.

Pending miscellaneous applications, if any, shall stand closed.

That Rule Nisi has been made absolute as above.

Witness THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE, on this MONDAY, THE EIGHTH DAY OF JANUARY TWO THOUSAND AND TWENTY FOUR

SD/-B. SARASWATHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Director General CGO Complex, Central Industrial Security Force, Lodhi Road, New Delhi.

2. The Deputy Inspector General, CISF., South Zone Besant Road, Chennai.
3. The Commandant, CISF., Ramagundam, Karimnagar District, T.S.
4. The Dy. Commandant, CISF., RSTPS., Ramagundam, Karimnagar District, T.S.
5. The Commandant, CISF., BDL., Kanchanbagh, Hyderabad, T.S.
6. The Secretary, Union of India, Ministry of Home, New Delhi
7. One CC to SRI B.SHIVA KUMAR, Advocate [OPUC]
8. One CC to SRI GADI PRAVEEN KUMAR, Dy. SOLICITOR GENERAL OF INDIA [OPUC]
9. Two CD Copies

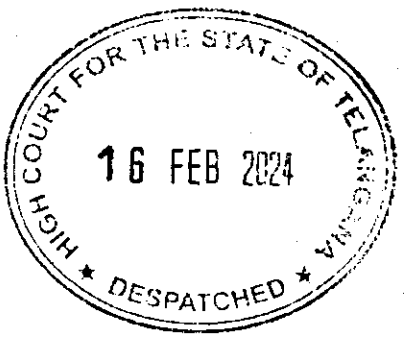
PSK.
GJP

HIGH COURT

DATED:08/01/2024

ORDER

WP.No.8596 of 2012



ALLOWING THE WRIT PETITION WITHOUT COSTS.

(11) VW 7/2/24