



W.P.No.20386 of 2012

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

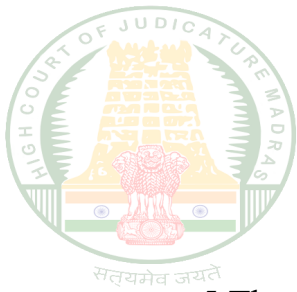
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A.Satyamurthy

... Petitioner

Vs.

- 1.Union of India
Represented 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,
Rajaji Bhawan,
Besant Nagar, Chennai-600 090.



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5. The Commandant,
CISF Unit, RSTPS (R),
Jyothi Nagar Post,
Karim Nagar District,
Andhra Pradesh.

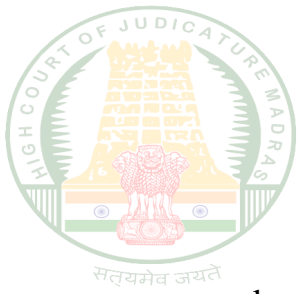
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 4th respondent dated 27.07.2011 in his order No.11014/20/ADM/MAJ/2011/5547, communicated by the 5th respondent through the communication No.V-15014/RSTPS(R) / Adm-IV/Maj-01 (ASM)/2011/2467, dated 10.08.2011 confirming the order of the 5th respondent in his final order No.V-15014/RSTPS(R) Adm-IV/Maj-01 (ASM)/2010-11/1080, dated 04.04.2011 and quash the same and to direct the respondents to take the petitioner into the strength of Central Industrial Security Force as Head Constable with all monetary benefits.

For Petitioner : Mr.A.S.Mujibur Rahman
For Respondents : Mr.M.Soundar Vijay Arulram
ACGSC

ORDER

In this Writ Petition, the Petitioner has challenged the Punishment Order dated 04.04.2011 passed by the 5th Respondent and an Order dated 27.07.2011 of the 4th Respondent confirming the aforesaid Order dated 04.04.2011 of the 5th Respondent and Communication dated 10.08.2011



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enclosing the copy of the Order of the 4th Respondent (hereinafter referred to as the 'Impugned Orders'). The aforesaid Punishment Order dated 04.04.2011 was passed by the 5th Respondent pursuant to a Charge Memo dated 10.11.2010 issued to the Petitioner.

2. The Petitioner was serving as a Head Constable with the 5th Respondent and had proceeded to New Delhi in connection with the Common Wealth Games in New Delhi. The Petitioner was otherwise attached to CISF Unit, RSTPS, Ramagundam, Andhra Pradesh and had traveled back to Ramagundam from New Delhi along with other colleagues.

3. It appears that after the train reached Ramagundam Railway Station on 19.10.2010, at about 18.10 hrs., the Petitioner left leaving behind the Rifle with loaded machine of 20 rounds of 7.62 MM ammunition in Coach No.S-11 / Berth No.08, which was allotted to the Petitioner. Thereafter, the Petitioner reported that his Rifle was missing along with 20 rounds of ammunition.



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4. The Rifle was later retrieved and collected from CISF Railway Police Station, by Inspector/Executive K.N.Sarkar, CISF Unit, RSTPS, Ramagundam. This incident was widely reported and had created a pandemonium. Thus, the Petitioner was issued with a Charge Memo dated 10.11.2010.

5. The Enquiry was conducted and the Enquiry Officer found the Petitioner guilty of the charges in the Enquiry Report dated 02.03.2011 which was accepted by the 5th Respondent vide Impugned Punishment Order dated 04.04.2011. Thereafter, the Petitioner preferred an Appeal against the impugned Punishment Order dated 04.04.2011 of the 5th Respondent. However, the 4th Respondent as an Appellate Authority upheld the Impugned Order dated 04.04.2011 of the 5th Respondent with the following observations:-

“7. After taking into account all aspects of the case, I fully agree with the findings of the Enquiry Officer and hold the charged official guilty of the charge leveled against him. The charged official has committed grave misconduct by leaving his 7.62mm SLR bearing Reg. No.60470, Butt No.7 with loaded magazine of 20 rounds of 7.62 mm ammunitions in the train. He also created tense situation unnecessarily. Charged official also failed to safeguard /

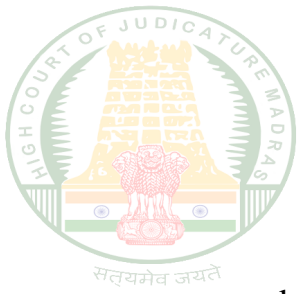


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protect his service arms and ammunitions which was issued to him for Govt. bonafide duty i.e., safety, security of property and life. Being a trained Force personnel with 21 years of service he had complete knowledge and consequence of such an act. He also tarnished the image of Force in the eye of public. Such misconduct is not tolerable in a disciplined Force which invariably leaves serious impact on the organization. He left the service arms & ammunition in the rain where innocent public were traveling and anything could have happened with the unattended arms which shows his very casual, negligence and dereliction approach towards responsibility. Retention of such member in the service would be a liability to the Force. Hence, he deserves exemplary punishment. I, therefore, in exercise of powers conferred upon me under Rule 32 schedule - I read in conjunction with Rules 34 (ii) of CISF Rules, 2001 (Amendment Rules 2003) impose the penalty of "REMOVAL FROM SERVICE" upon No.892331141 HC/GD A.Satyamurthy with immediate effect. The period of suspension from 19.10.2010 to the date of issue of this order is treated as suspension only for all purposes and he will not be paid any more pay and allowances except the subsistence allowances already paid during the period of suspension.

8. No.892331141 HC/GS A.Satyamurthy may prefer an appeal against this order to the DIG CISF SZ Hqrs Chennai, if he so desires within 30 days from the date of receipt of this order."

6. It is the case of the Petitioner that the Petitioner had fallen sick and was unable to move in the train during the journey and was given only



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a packet of biscuit and cool drinks and therefore, the Petitioner was not in a stable condition. Thus, the Petitioner by mistake had left behind the loaded Rifle in the train and had however immediately reported the same to the authorities. Therefore, it is stated that there was no deliberate attempt on the part of the Petitioner to leave the loaded Rifle in the train to warrant a punishment of removal from service.

7. It is the further case of the Petitioner that the Petitioner has rendered service for 22 years since 1989 and to remove the Petitioner from service for the aforesaid incident is a disproportionate punishment for the misconduct committed by the Petitioner. It is stated that the case of the Petitioner does not warrant a major penalty under Rule 34(2) of the CISF Rules, 2001.

8. As far as the jurisdiction of this Court is concerned, the learned counsel for the Petitioner has placed reliance on the following decision of the Hon'ble Supreme Court as follows:-

- i. **Nawal Kishore Sharma Vs. Union of India and others** reported AIR 2014 SC 3607;



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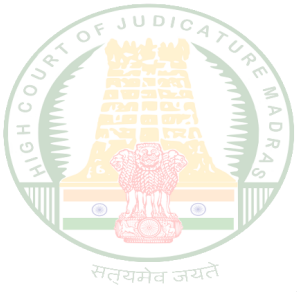


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- ii. **Shanti Devi Alias Shanti Mishra Vs. Union of India & Ors** reported in Aironline 2020 SC 819 and
- iii. **Union of India Vs. Alapan Bandyopadhyay** in Civil Appeal No.197 of 2022.

9. On the other hand, the learned counsel for the Respondents would submit that the Impugned Orders are well reasoned and do not merit any interference. That apart, it is submitted that the Impugned Punishment Order dated 04.04.2011 of the 5th Respondent was amendable to the jurisdiction of Andhra Pradesh High Court as the Impugned Punishment Order was passed by the 5th Respondent at CISF Unit, RSTPS (R) Jyothi Nagar Post, Karim Nagar District, Andhra Pradesh. It is submitted that merely because the Appellate Authority is at Chennai, *ipso facto* would not entitle the Petitioner to challenge the Impugned Punishment Order and the Appellate Order of the 4th Respondent before this Court.

10. In this connection, the learned counsel for the Respondents had placed reliance on the decision of the Hon'ble Supreme Court in the case of **ONGC Vs. Utpal Kumar Basu and Others**, (1994) 4 SCC Pg.711.



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11. The learned counsel for the Respondents would further submit that the incident had created a wide spread fear on the passengers and was reported in Daily News Papers. It is further submitted that due to the action of the Petitioner, CISF had to face retributive response, as an employee of CISF had negligently left the loaded Rifle in the train. It is further submitted that if any anti social element had gotten a hold of the Rifle, perhaps it would have resulted in the loss of the Rifle and could have been used for anti social activities.

12. The learned counsel for the Respondents further submits that the above charges framed against the Petitioner were serious in nature and therefore, was terminated from service notwithstanding the fact that the Petitioner had rendered 22 years of service in the past. It is further submitted that *Ipsa facto* would not mean that the Petitioner can be allowed a lighter punishment. It is therefore submitted that punishment awarded by the 5th Respondent vide Impugned Punishment Order dated 04.04.2011 which has been affirmed by the 4th Respondent do not merit any interference.



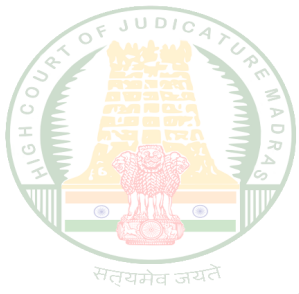
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13. I have considered the arguments advanced by the learned counsel for the Petitioner and the learned ACGSC for the Respondents.

14. There is no dispute that till the issuance of the Charge Memo dated 10.11.2010, there were no indications that the Petitioner had been subjected to any other disciplinary proceedings under the Rules applicable for the provision of CISF Rules, 1968.

15. The fact that the Petitioner was involved in a solitary incident is also not in dispute. A warrant of punishment, in terms of Rule 34 of the CISF Rules, 2001, was issued. However, while awarding the punishment, the disciplinary authority must also consider the attendant circumstances and the background of the delinquent. It is undisputed that the Petitioner has rendered 22 years of unblemished service after joined the 5th Respondent organization in the year 1989 as a Constable. This aspect should have been duly considered by the 5th Respondent.



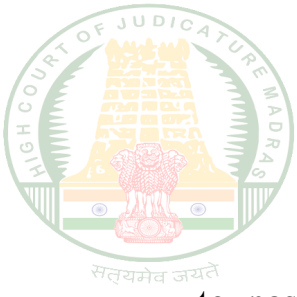
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16. Unless there is a proof that the Rifle was deliberately left behind by the Petitioner to enable a third party or terrorist to take charge of it and create a law and order situation, the Petitioner should not have faced the extreme punishment of removal from service. The disciplinary authority could have imposed any of the other lesser punishments prescribed under Rule 34(III)(IV)(V) etc of the CISF Rules, 2001. The punishment awarded is vindictive and too harsh.

17. This Court is of the opinion that compulsory retirement would have been a more appropriate punishment for the misconduct committed by the Petitioner, rather than the punishment of terminating the service of the Petitioner imposed by the 5th Respondent in the disciplinary proceedings. Removal from service is an extreme punishment for a delinquent employee with no prior disciplinary issues.

18. Considering the same, the Impugned Orders of the Respondents are modified by imposing a punishment of compulsory retirement on the Petitioner instead of the punishment of terminating the service of the Petitioner as imposed by the Respondents. The Respondents are directed



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to pass suitable orders treating the Petitioner as having compulsorily retired from service from the date of issuance of the Order dated 04.04.2011 and extend the attendant benefits to the Petitioner along with his terminal benefits and pensionary benefits, if any. This exercise shall be completed by the Respondents within a period of eight weeks from the date of receipt of a copy of this order.

19. This Writ Petition is partly allowed with the above observation.

No costs.

19.03.2025

Neutral Citation : Yes/No

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To

- 1.The 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,
Rajaji Bhawan,
Besant Nagar, Chennai-600 090
- 5.The Commandant,
CISF Unit, RSTPS (R),
Jyothi Nagar Post,
Karim Nagar District,
Andhra Pradesh.



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C.SARAVANAN, J.

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