



W.P.No.2521 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.03.2025

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**Coram:
THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.P.No.2521 of 2011

Mr.Ludan Ram

...Petitioner

Versus

1.The Director General,
Central Industrial Security Force,
No.13, C.G.O. Complex,
Lodhi Road,
New Delhi – 110 003.

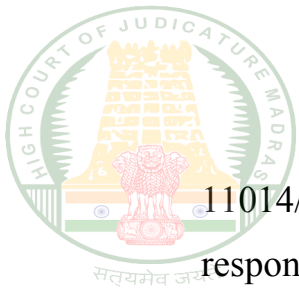
2.Inspector General,
Western Sector Head Quarters,
CISF Complex, Sector – 35,
Kharghar,
Navi Mumbai – 410 210.

3.Deputy Inspector General,
D.A.E. Zonal Head Quarters,
E.C.I.L Post,
Hyderabad – 500 062.

4.The Commandant,
C.I.S.F.Unit,
D.A.E. Kalpakkam,
Kancheepuram District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of certiorarified mandamus to call for the
records relating to the order passed by the 1st respondent in his letter No.V-



W.P.No.2521 of 20...

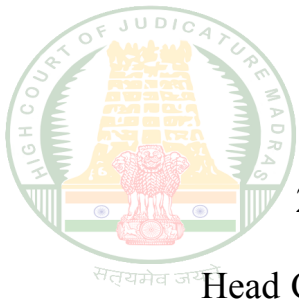
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11014/05/L&R/2010/2452, dated 16.09.2010 confirming the order of the 2nd respondent in his letter No.V-15012/Western Zone/L&R/10-2892 dated 23/24.05.2010 confirming the order of the 3rd respondent in his order No.V-11014/A-01/2010/L&R/DAE/474, dated 21.01.2010 confirming the order of the 4th respondent in his final order No.V-15014/Disc/Maj-KKNPP/2009/5492, dated 17.11.2009 and quash the same and to direct the respondents to take the petitioner into the strength of CISF as Head Constable with all monetary benefits.

For Petitioner	:	Mr.A.S.Mujibur Rahman
For Respondents	:	Dr.D.Simon, Central Govt. Standing Counsel

ORDER

The relief sought in this Writ Petition is to quash the Order passed by the 1st Respondent in letter No.V-11014/05/L&R/2010/2452, dated 16.09.2010 confirming the Order of the 2nd Respondent in letter No.V-15012/Western Zone/L&R/10-2892 dated 23/24.05.2010 confirming the order of the 3rd Respondent in Order No.V-11014/A-01/2010/L&R/DAE/474, dated 21.01.2010 confirming the Order of the 4th Respondent in Final Order No.V-15014/Disc/Maj-KKNPP/2009/5492, dated 17.11.2009 and to direct the Respondents to take the Petitioner into the strength of CISF as Head Constable with all monetary benefits.



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2. The brief facts of the case are that the Petitioner was serving as a Head Constable in the Central Industrial Security Force (CISF). In the year 2007, the Petitioner was posted at CISF Unit, Kudankulam, Tirunelveli District. While so, on 25.08.2009, at about 22.30 Hours, when the Petitioner was watching Television in the Unit Recreation Hall, one Mr.Anupam Mukherjee, Constable asked the Petitioner to change the TV channel. But, the Petitioner refused to change the TV channel. Hence, both the Petitioner and the said Anupam Mukherjee entered into an argument over the issue of changing TV channel. During their argument, the Petitioner assaulted the said Anupam Mukherjee with a plastic chair.

3. After the aforesaid incident, both the Petitioner and Constable Anupam Mukherjee were taken to the Kudankulam Nuclear Power Project Dispensary for medical examination. On 26.08.2009, at around 12.45 a.m., both of them were examined by a Medical Officer. The Medical Officer gave a Report stating that the Petitioner was under the influence of alcohol at the time of medical examination.

4. Immediately after the aforesaid incident, Mr.R.K.Sharma, Deputy



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Commandant, CISF Unit, KKNPP(K) vide Order dated 25.08.2009, placed the Petitioner under suspension. Thereafter, the Petitioner was issued with a Charge Memo dated 06.09.2009 bearing No.V-15014/Disc/Maj-KKNPP/2009/4239 by the 4th Respondent. The charges framed against the Petitioner in the Charge Memo dated 06.09.2009 are extracted hereunder:

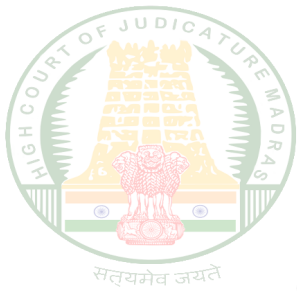
“Charge No.1:

That No.844502863 HC/GD Ludan Ram of CISF Unit KKNPP Kudankulam on 25.08.2009 at about 22.30 hours was viewing TV in the Unit Recreation Hall CISF Unit KKNPP Kudankulam in an intoxicated condition, entered into an argument with No.034610413 Constable Anupam Mukherjee on the issue of changing of TV Channel and assaulted No.034610413 Constable Anupam Mukherjee with a Plastic Chair, which amounts to gross misconduct, indiscipline and unbecoming of a member of Armed Force of Union.

Charge No.2:

Incorrigible attitude in that No.844502863 HC/GD Ludan Ram of CISF Unit KKNPP Kudankulam did not reform himself in spite of being awarded seven penalties for misconducts and indiscipline activities. Hence, the Charge.”

5. In response to the aforesaid Charge Memo, the Petitioner submitted his detailed Reply on 14.09.2009, denying the charges levelled against him. Thereafter, 4th Respondent vide Order dated 22.09.2009, appointed Mr.R.K.Sharma, Deputy Commandant, CISF Unit, KKNPP(K) as the Enquiry Officer to enquire into the charges framed against the Petitioner.

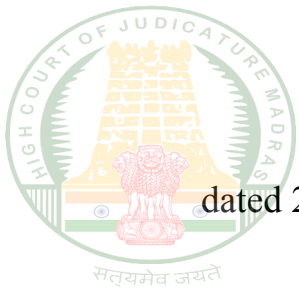


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6. After completing the Department Enquiry, the Enquiry Officer submitted the Enquiry Report dated 31.10.2009 holding that the charges framed against the Petitioner were proved. The 4th Respondent vide Letter dated 02.11.2009, served a copy of the Enquiry Report to the Petitioner and called upon the Petitioner to submit his representation, if any, within 15 days from the date of receipt of that Letter.

7. After the receipt of Letter dated 02.11.2009 of the 4th Respondent, the Petitioner submitted his detailed Representation on 05.11.2009. However, based on the findings of the Enquiry Officer, the 4th Respondent vide Order dated 17.11.2009, imposed the penalty of “Removal from Service which shall not be a disqualification for future employment under the Government” on the Petitioner.

8. Aggrieved by the Order dated 17.11.2009 passed by the 4th Respondent, the Petitioner preferred an Appeal dated 30.11.2009 to the 3rd Respondent, but, the 3rd Respondent vide Order dated 21.01.2010, rejected the Petitioner's Appeal. Hence, the Petitioner filed a Revision Petition dated 15.03.2010 to the 2nd Respondent. However, the 2nd Respondent vide Order



dated 23/24.05.2010, rejected the Petitioner's Revision Petition.

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9. Finally, the Petitioner made a Representation dated 26.07.2010 to the 1st Respondent, requesting to set aside the following orders:

- (i) Order dated 17.11.2009 passed by the 4th Respondent;
- (ii) Order dated 21.01.2010 passed by the 3rd Respondent; and
- (iii) Order dated 23/24.05.2010 passed by the 2nd Respondent

and to re-instate the Petitioner in service. After the receipt of Petitioner's Representation, the 1st Respondent passed the Order dated 16.09.2010, stating that the Petitioner had already availed all departmental remedies by way of appeal and revision and there is no provision in CISF Act and Rules for second appeal or revision. Hence, left with no other alternative, the Petitioner has filed this Writ Petition for the relief stated *supra*.

10. The learned counsel for the Petitioner submitted that the Constable, Anupam Mukherjee who was allegedly attacked by the Petitioner on 25.08.2009 at around 22.30 Hours while watching Television in the Unit Recreation Hall has not given any written complaint against the Petitioner.

10.1. It is further submitted by the learned counsel for the Petitioner



that when Mr.R.K.Sharma, Deputy Commandant, CISF Unit, KKNPP(K) came to know about the incident alleged to have been taken place on 25.08.2009 at around 22.30 Hours, he immediately placed the Petitioner under suspension without even waiting for the preliminary enquiry report.

10.2. It is also submitted by the learned counsel for the Petitioner that there were no eye witnesses for the alleged misconduct and that the Impugned Orders have been passed by the Respondents merely on the basis of the findings of the Enquiry Officer. It is therefore submitted that the Impugned Orders passed by the Respondents suffers from serious infirmity.

10.3. It is submitted by the learned counsel for the Petitioner that the 3rd Respondent ought to have set aside the Order dated 17.11.2009 passed by the 4th Respondent. However, without doing so, the 3rd Respondent vide Order dated 21.01.2010, rejected the Appeal preferred by the Petitioner. It is also submitted that the Petitioner filed a Revision Petition against the Order dated 21.01.2010 passed by the 3rd Respondent, but, the 2nd Respondent vide Order dated 23/24.05.2010, rejected the said Revision Petition.

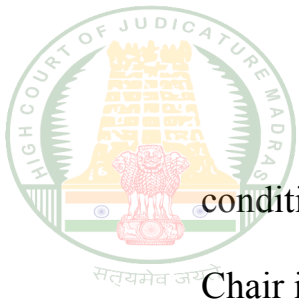


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10.4. The learned counsel for the Petitioner submitted that Charge No.2 framed against the Petitioner is totally irrelevant to the incident that happened on 25.08.2009. It is submitted that the previous penalties imposed on the Petitioner are no way related to the offence committed by the Petitioner on 25.08.2009.

10.5. That apart, it is submitted that even if the Petitioner was found guilty of the charges framed against him, the punishment of “Removal from Service” imposed on the Petitioner is highly disproportionate for the alleged misconduct when considering the long service put up by the Petitioner. Therefore, the learned counsel for the Petitioner prayed for quashing the Impugned Orders passed by the Respondents and to award a lesser punishment to the Petitioner under Rule 34 of the Central Industrial Security Force (CISF) Rules, 2001.

11. On the other hand, defending the Impugned Orders, the learned Central Government Standing Counsel for the Respondents submitted that on 25.08.2009, at about 22.30 Hours, the Petitioner was in an intoxicated



condition and assaulted the Constable Anupam Mukherjee with a Plastic Chair in the Unit Recreation Hall, due to which, the said Constable sustained injuries.

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11.1. It is submitted by the learned Central Government Standing Counsel for the Respondents that immediately after the incident, the Petitioner and the injured Constable Anupam Mukherjee were taken to the KKNPP Dispensary for medical examination. It is also submitted that the Medical Examination Report revealed that at the time of medical examination, the Petitioner was under the influence of alcohol and it also revealed that Constable, Anupam Mukherjee who was assaulted by the Petitioner had sustained injuries on his forehead and nose. Therefore, the Petitioner was placed under suspension and disciplinary proceedings were initiated against him.

11.2. It is further submitted by the learned Central Government Standing Counsel that the conduct of the Petitioner warrants disciplinary proceedings and punishment of "Removal from service". It is submitted that as a Head Constable, the Petitioner's behaviour ought to have been exemplary, but, the Petitioner's outrageous behaviour resulted in the



initiation of disciplinary proceedings.

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11.3. That apart, the learned Central Government Standing Counsel for the Respondents submitted that there are no procedural irregularities. It is submitted that the Enquiry officer had conducted the departmental enquiry in a fair manner. It is stated that during enquiry, on the side of prosecution, 6 witnesses were examined and 4 documents were marked as exhibits.

11.4. It is submitted by the learned Central Government Standing Counsel for the Respondents that the punishment of “Removal from Service” awarded to the Petitioner is commensurate to the gravity of offence committed by the Petitioner and hence, Respondents 2 & 3 did not interfere with the punishment imposed on the Petitioner.

11.5. The learned Central Government Standing Counsel for the Respondents submitted that under Article 226 of the Constitution of India, the scope for interference by Courts in departmental disciplinary proceedings is limited and the Courts would concern only with the decision making process and not with the decision *per se*. Therefore, it is submitted



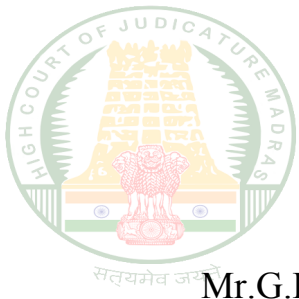
that this Writ Petition is liable to be dismissed.

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12. I have considered the arguments advanced by the learned counsel for the Petitioner as well as the learned Central Government Standing Counsel for the Respondents and I have also perused the materials available on record.

13. In the present case, on 25.08.2009, at about 22.30 Hours, when the Petitioner and Constable viz., Mr.Anupam Mukherjee were watching Television in the Unit Recreation Hall, both of them had allegedly entered into an argument over changing the TV channel. During the argument, the Petitioner had allegedly assaulted the said Anupam Mukherjee with a plastic chair. At that time, the Petitioner was allegedly in an intoxicated condition. The Petitioner's conduct was not in consonance with the conduct that is expected to be of a Head Constable even during leisure time.

14. The fact that the Petitioner was found intoxicated was proved as per the Medical Examination Report. It indicates that the Petitioner was under the influence of alcohol at the time of medical examination.



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15. The contention of the Petitioner that the appointment of Mr.G.P.Goswamy, Inspector/Exe (P.W.1) as Enquiry Officer to hold preliminary enquiry and Mr.R.K.Sharma, Deputy Commandant, CISF Unit, KKNPP(K) as Enquiry Officer to hold the Department Enquiry is against the Principles of Natural Justice also cannot be countenanced.

16. There would have been only very few Senior Officers present at the site of incident that by itself could not negate the preliminary enquiry and the evidence of P.W.1. Merely because Mr.R.K.Sharma, Deputy Commandant, CISF Unit, KKNPP(K) placed the Petitioner under suspension and was later appointed as Enquiry Officer for conducting enquiry also *ipso facto* would not mean that the enquiry conducted by the said Officer was vitiated. That apart, the disciplinary proceedings are not governed by the strict rules of evidence but are governed by the Principle of Preponderance of Probabilities.

17. Considering the fact that the Petitioner was under the influence of alcohol and Constable, Anupam Mukherjee was found injured and that others had intervened to depose evidence as prosecution witnesses indicate



that the misconduct of the Petitioner was proved. Therefore, the Petitioner was to be punished for the misconduct.

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18. As far as Charge No.1 framed against the Petitioner is concerned, the Petitioner was found guilty and thus, the said charge warrants a major penalty other than “Removal from Service”. It has caused serious prejudice to the Petitioner since the Petitioner had put in more than 25 years of service in CISF. Instead of imposing the punishment of “Removal from Service” on the Petitioner, the 4th Respondent could have imposed the punishment of “Compulsory Retirement from Service” on the Petitioner, in which case, the Petitioner have got certain benefits for having rendered more than 25 years of service in CISF.

19. So far as Charge No.2 framed against the Petitioner is concerned, the said charge indicates that already 7 different penalties have been imposed on the Petitioner for his misconduct and indiscipline. The penalties imposed on the Petitioner are minor penalties within the meaning of Rule 34 of the Central Industrial Security Force (CISF) Rules, 2001.

20. In view of the above facts and circumstances of the case and



W.P.No.2521 of 20...

having regard to the submissions made by the learned counsel on either side,

this Court is inclined to partly allow this Writ Petition by modifying the punishment imposed on the Petitioner.

21. Accordingly, this Writ Petition is partly allowed and the punishment of “Removal from Service” imposed on the Petitioner is modified to the punishment of “Compulsory Retirement from Service”. As far as service benefits of the Petitioner is concerned, the Respondents are directed to pass appropriate orders, within a period of six months from the date of receipt of a copy of this Order. No costs.

07.03.2025

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Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Director General,
Central Industrial Security Force,
No.13, C.G.O. Complex,
Lodhi Road,
New Delhi – 110 003.

2.Inspector General,
Western Sector Head Quarters,
CISF Complex, Sector – 35,



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3. Deputy Inspector General,
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4. The Commandant,
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C.SARAVANAN, J.

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