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W.P. No.5360 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.P.No.5360 of 2015

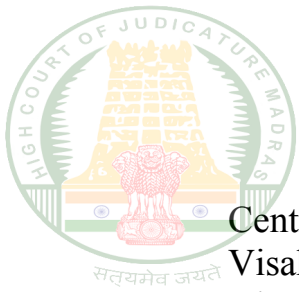
C.Devarajan

... Petitioner

Vs.

- 1.The Union of India,
Rep. By its Secretary to Government,
Ministry of Home Affairs,
New Delhi.
- 2.The Director General,
Central Industrial Security Force,
CGO Complex, Lodhi road,
New Delhi – 110 003.
- 3.The Inspector General,
Central Industrial Security Force,
South Sector, Head Quarters,
New War Memorial,
chennai – 600 009.
- 4.The Deputy Inspector General of Police,
Central Industrial Security Force,
South Sector, Head Quarters,
Rajaji Bhawan, Besant Nagar,
Chennai – 600 090.
- 5.The Commandant,

Page No.1 of 12



W.P. No.5360 of 2015

Central Industrial Security Force,
Visakhapattinam Port Trust,
Visakhapattinam – 530 035
Andhra Pradesh.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of certiorarified Mandamus to call for the records relating to the order passed by the 3rd respondent dated 21.12.2012 in his Order No.V-15014/L&R/SS/Rev/CD/2011-13439 confirming the order of the 4th respondent dated 30.05.2012 in his Appellate Order No.V-11014/13/Anu/SZ/2012/4614 confirming the Final Order of the 5th respondent dated 29.02.2012 in his final order No.V-15014/CISF/VPT/DISC/MAJ/CDR/2012/465, and quash the same and to direct the respondents to pay all monetary benefits.

For Petitioner : Mr.A.S.Mujibur Rahman

For R1 to R5 : Mr.V.Chandrasekaran
Special Panel Counsel

ORDER

The petitioner has challenged the impugned orders passed by the respondents, as detailed below:

<i>Sl. No</i>	<i>Impugned Order No.</i>	<i>Date of Impugned order</i>	<i>Respondent</i>
1.	No.V-15014/L&R/SS/Rev/CD/2011-13439	21.12.2012	3 rd Respondent
2.	No.V-11014/13/Anu/SZ/2012/4614	30.05.2012	4 th respondent
3.	No.V-15014/CISF/VPT/DISC/MAJ/	29.02.2012	5 th respondent



WEB COPY

Sl. No	Impugned Order No.	Date of Impugned order	Respondent
	CDR/ 2012/465		

2. By the Impugned Order dated 29.02.2012, passed by the 5th respondent, the petitioner has been awarded a punishment of “Reduction of pay by one stage from Rs.9880/- to Rs.9510/- in the Pay Band-1 of Rs.5200-20200 with grade pay of Rs.2800/- for a period of one year with immediate effect upon No.864502834 HC/GD C.Devarajan. It is further ordered that HC/GD C.Devarajan will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will have the effect of postponing his future increments of pay”.

3. By the Impugned Order dated 30.05.2012, the 4th respondent, as the appellate authority has affirmed the punishment order dated 29.02.2012 of the 5th respondent, and thereby rejected the appeal filed by the petitioner. By the Impugned Order dated 21.12.2012, the 3rd respondent has rejected the revision petition preferred by the petitioner against the order dated 30.05.2012 passed by the 4th respondent and affirmed the order of the 4th and 5th respondents.



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4. In the background of these Impugned Orders is the Charge Memo dated 15.11.2011 issued against the petitioner by the 5th Respondent in respect of an incident that took place on 04.11.2011. The charge framed against the petitioner in the aforesaid Charge Memo reads as follows:

***“ANNEXURE – I
STATEMENT OF ARTICLE OF CHARGE FRAMED
AGAINST CISF NO.864502834 HC/GD C.DEVARAJAN
(UNDER SUSPENSION) OF CISF UNIT VPT
VISA KHAPATNAM.***

“That CISF No.864502834 HC/GD C.Devarajan (U/S) of 'B' Sector of CISF Unit, VPT Visakhapatnam was detailed from 0500 hrs to 1300 hrs on 04.11.2011 at EQ-7 Gate along with ASI/Exe Skariah T.M, Constable K.R.Selvarajan and Constable K.Bhaskar. At about 1330 hours on 04.11.2011 after completion of duty he was found standing in front of 'B' Sector Barrack in suspicious condition and ran away from the spot to avoid the pocket checking when Insp/Exe Anil Kumar alongwith SI/Exe M.E.Nanjunda and HC/GD S.P.Swamy called him for pocket checking. Thus, the act committed by No.864502834 HC/GD C.Devarajan (U/S) amounts to gross misconduct, grave indiscipline of duty being a member of the Disciplined Force”. Hence the charge.

5. The petitioner replied to the said Charge Memo, dated 15.11.2011 by a reply dated 25.11.2011, wherein the petitioner has denied the



above mentioned charge framed against him by the 5th Respondent.

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6. It is the case of the petitioner that the petitioner had visited 'B' Sector Barrack to receive the Mess Caution Money and since the Mess Officer was on 'B' Shift duty, the petitioner immediately returned back to the board on the shift bus. At that time, Insp/Exe. Mr.Anilkumar, along with SI/Exe.M.E.Nanjunda and HC/GD S.P.Swamy were checking the person, Constable K.Bhaskar and that the petitioner was asked to sign on the seizure list for having seized Rs.140/- from the said Constable. It is stated that the petitioner had put signature, though the petitioner was not an eye witness to the incident. It is submitted that thereafter, the petitioner left for his residence and had no reason to avoid the pocket checking of Insp/Exe Anil Kumar.

7. It is the further case of the petitioner that he was checked in person, and nothing was recovered from him and that the allegations against the petitioner is a fabrication, and that the seizure list itself a glaring proof to sustain that no money was seized from the possession of the petitioner.

8. It is the further case of the petitioner that, if the petitioner had



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any intention of avoiding personal checking, the petitioner would not have made himself available for the checking at all. It is stated that however, the enquiry officer, in his report dated 28.01.2012, found the petitioner guilty of the charge mentioned above despite there being no mistake committed by the Petitioner.

9. Four witnesses were examined namely Insp/Exe.Anil Kumar, SI/Exe. M.E.Nanjunda, HC/GD S.P.Swamy and Const. U.Khumod Sadasiv.

10. It is submitted that the order of the disciplinary authority, namely the 5th respondent, dated 29.02.2012, is clearly contrary to the findings recorded in the enquiry officer's report, wherein it has been stated that nothing suspicious was found from the petitioner. It is further submitted that the 4th respondent, as the appellate authority, rejected the appeal filed by the petitioner vide order dated 30.05.2012, mechanically, by merely reproducing the charges and the submission of the petitioner. Relevant portion of the aforesaid order reads as under:

“4. In view of the foregoing discussion, I do not find any cogent reason to interfere in the order passed by the disciplinary authority. I, therefore, REJECT the instant



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W.P. No.5360 of 2015

appeal petition being devoid of merit and hereby confirm the penalty awarded to the appellant by the disciplinary authority vide order dated 29.02.2012.

5. The appeal petition dated 30.03.2012 submitted by the appellant stands disposed as above. No.864502834 HC/GD C Devarajan of CISF Unit VPT Visakhapatnam shall acknowledge receipt of this order.”

11. It is submitted that despite a clear representation for the revision of the order, the 3rd respondent has affirmed the order by rejecting the revision petition preferred by the Petitioner against the Impugned Order dated 30.05.2012 issued by the 4th Respondent vide impugned order dated 21.12.2012

12. Defending the impugned order, the learned counsel for the respondents submits that the impugned orders are well-reasoned and do not warrant any interference under Article 226 of the Constitution of India. The learned counsel for the respondents further submits that the petitioner has not shown any procedural illegality or arbitrariness in the procedure adopted in the disciplinary proceedings by the respondents herein and therefore, on this ground, this writ petition is liable to be dismissed.



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13. Have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents, and have also perused the impugned order of the 5th Respondent, the charge memo dated 15.11.2011, the enquiry report dated 28.01.2012, the reply, the grounds of appeal and the revision petitions filed in response to the charge memo dated 15.11.2011, and appeal and revision impugned orders passed by the 3rd and 4th respondents.

14. This Court is of the view that barring a finding that the petitioner ran away to avoid checking by the said Inspector, namely Ins/Exe. Anil Kumar of 'B' Section Barrack, nothing else has been found by the Respondents to justify the disciplinary proceedings against the petitioner.

15. However, the petitioner being a Head Constable with the respondents should have offered himself for examination, considering the fact that the petitioner is an employee of the department. which is concerned with the security of the citizens of the Country.

16. The conduct of the petitioner in avoiding such a check may



amount to a violation, however, would not warrant punishment of “Reduction of pay by one stage from Rs.9880/- to Rs.9510/- in the Pay Band-1 of Rs.5200-20200 with grade pay of Rs.2800/- for a period of one year with immediate effect upon No.864502834 HC/GD C.Devarajan, which further ordered that the Petitioner HC/GD C.Devarajan will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will have the effect of postponing his future increments of pay”. This punishment awarded to the Petitioner would also have cascading effect on the salary of the petitioner, terminal benefits and pension to be drawn by the petitioner since has a cumulative effect.

17. Considering the overall facts and circumstances of the case, this Court is inclined to modify the punishment to “Reduction of pay for a period of three months without cumulative effect”. The respondents are directed to give effect to the same within a period of three (3) months from the date of receipt of a copy of this order.

18. Accordingly, this writ petition stands allowed with the above



W.P. No.5360 of 2015

observations. The connected miscellaneous petitions, if any, shall stand closed. No costs.

WEB COPY

26.02.2025

Index : Yes/No
Speaking Order : Yes/No

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Page No.10 of 12



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C.SARAVANAN,J.

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