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W.P.No.38071 of 2016



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-11-2025

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THE HONOURABLE MR.JUSTICE K. SURENDER

WP No. 38071 of 2016

Ingle Naresh Baliram

Petitioner(s)

Vs

The Commandant
CISF Unit NLC Neyveli, Neyveli-607
801, Cuddalore District, Tamil Nadu

Respondent(s)

PRAYER

This Writ Petition is filed under Article 226 of Constitution of India seeking Writ of Certiorarified Mandamus to call for the records pertaining to the letter bearing No. V-15014/CISF/NLC/CC/NBI/ 2012/0968 dated 29.10.2012 issued by the respondent and quash the same and consequently direct the respondent to regularize the intervening period between the date of termination (16.02.2005) and the date of reinstatement (04.08.2012) as one spent on duty with all consequential benefits arising therefrom, including but not limited to back wages and other admissible allowances.

For Petitioner(s): Mr.Menon karthik

For Respondent(s): Mr.C.K.V.Dhruva



ORDER

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This Writ Petition is filed challenging the letter bearing No. V-15014/CISF/NLC/CC/NBI/ 2012/0968 dated 29.10.2012 issued by the respondent and for consequential direction to the respondent to regularize the intervening period between the date of termination (16.02.2005) and the date of reinstatement (04.08.2012) as duty period with all consequential benefits.

2. The petitioner, a CISF Constable, was appointed on 20.03.2002 and he was in service continuously till 09.02.2005. While things stood thus, on 06.02.2005, the respondent issued an office order to the petitioner bearing No.E.15018/CISF/NLC/ACR/05/1274, stating that the petitioner was involved in a criminal case, and the same was suppressed at the time of his employment. Subsequently, on 09.02.2005, respondent issued the termination order bearing No.V-1501/CISF/NLC/Disc/NBI/05-1435, terminating the petitioner's service. The termination of the petitioner was on account of suppressing the criminal case which was pending before the Nandura police station. Questioning the said termination, the petitioner has preferred Writ Petition No.6929 of 2011 before this Court.

3. This Court by an order dated 06.02.2012, in W.P.No.6929 of 2011 found that the petitioner was in-fact unaware of the pending Criminal case



against him and held as under:

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“9. A perusal of the impugned order would reveal that there was no mentioning about the alleged suppression of the petitioner’s service and only on the basis of further enquiries by the department in the year 2005, the department sent the notice for adverse remarks in the service records. Only on receipt of such notice, the petitioner came to know about the registration of first information report against him. Thereafter, the petitioner made enquiries and found that his name was included in a criminal case and it subsequently ended in acquittal or discharge of the petitioner on 13.10.2010 on the ground that the prosecution had failed to establish both the existence of a prohibitory order and the presence of the accused. The copy of the judgment rendered by the Criminal Court was also produced before this Court wherein it was stated that the prosecution has not even proved that there was an prohibitory order promulgated or was in force at the time of incident. Therefore, the petitioner would contend that there is no proof for his participation in the alleged unlawful assembly and it is not correct. Under those circumstances, the petitioner sent a representation on 15.11.2010 to the respondent seeking reinstatement, which was rejected by reply dated 28.01.2011 of the respondent. Even before passing the order of rejection dated 28.11.2011, the respondent did not afford any opportunity to the petitioner to putforth his defence.

11. It is further pertinent to note that in this case, after adverse remarks were communicated on



06.02.2002, immediately, without giving any notice or seeking for any explanation, by giving one month salary, the petitioner ought to have been given an opportunity of hearing before the order of termination has been passed as the termination was not only passed on the basis that the petitioner was under the probation period.

12. In the result, the impugned orders are set aside and the matter is remanded back to the respondent to consider the claim of the petitioner for reinstatement in the light of the judgment rendered by the Hon'ble Supreme Court in Commissioner of Police and other Vs. Sandeep Kumar 2011 4 MLJ 1006 after giving opportunity to the petitioner and pass orders on merits and in accordance with law, within a period of 4 months from the date of receipt of a copy of this order..."

4. Pursuant to the orders passed in W.P.No.6929 of 2011, on 10.06.2012, the petitioner made a representation to the respondent. On 29.10.2012, respondent rejected the representation of the petitioner and passed the impugned, confirming the intervening period from the date of termination to date of reinstatement was regularized as "dies-non" and the relevant portion of the order is extracted hereunder:

"5. In view of the elaborated discussion made in the preceding para, I found that the contentions made by Constable Naresh Baliram Ingle Vide his representation dated 28.09.2012 are not maintainable and not acceptable being devoid of merit. The petitioner



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was out of service for the period w.e.f 16.02.2005 to 04.08.2012 and he had not rendered any services to the Department during the period under consideration As such, the proposal made vide Show Cause Notice under reference is hereby confirmed and the intervening period from the date of termination from service to the date of reinstatement ie.16.2.2005 to 04.08.2012 in respect of No.023610505 Constable Naresh Baliram Ingle of CISF Unit NLC Neyveli is hereby regularised as “Dies-Non” for all purposes on the principle of “No Work, no pay” and he will not be paid nay pay and allowances for the said period. However, this will not be treated as break in service in terms of Rule25 of CCS (Pension) Rule 1972.”

5. The learned counsel appearing on behalf of the petitioner would submit that once it was found by the department that the petitioner was not aware of any pending criminal case and had not suppressed any information at the time of appointment, treating the intervening period from the date of termination of the petitioner from service to the date of his reinstatement ie.16.2.2005 to 04.08.2012 as “Dies-Non” is unsustainable and in support of his contentions, the learned counsel also relied on the judgment of this Court in W.A.385 of 2019 dated 15.05.2019 wherein the Hon’ble Division Bench of this Court had dealt with a case of Teacher whose certificate was found fake initially and thereafter, it was found that the certificate was correct and ordered for payment of backwages. The relevant portion of the said order is extracted hereunder:

“13. The Hon’ble Supreme Court of India in Deepali



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Gundu Surwase -Vs- Kranti Junior Adhyapk Mahavidyala [(2013) 10 SCC 324] after referring to the earlier decision relating to the consequences of wrongful termination from service, has succinctly culled out the propositions and held in para No.38.5 as follows:

“38.5. The case in which the competent Court or Tribunal finds that the employer has acted in gross violation of the statutory provisions and /or the principles of natural justice or is guilty of victimizing the employee or workman, then the Court or Tribunal will be fully justified in directing payment of full back wages. In such case, the superior Courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc., merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer’s obligation to pay the same. The Court must always keep in view that in the cases of wrongful / illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and there is no justification to give a premium to the employer of his wrongdoings by relieving him of the burden to pay the employee/workman his dues in the form of full back wages.”

6. The learned counsel for respondent on the other hand submit that the claim of the petitioner that he was unaware of the pending criminal case is unacceptable, as he and his relatives were involved in the case. Learned counsel further contended that petitioner is not entitled to backwages, as he was not suffering from any ill-health, and that he was also gainfully employed for seven years. Therefore, the back wages cannot be granted during the said seven-year



period.

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7. This Court, in W.P.No.6929 of 2011, after appreciating the facts of the case, held that the petitioner was not aware of any pending criminal case, hence, the question of suppression does not arise. Based on this Court's finding, the respondent reinstated the petitioner into service, concluding that the petitioner had not willfully suppressed any information at the time of his appointment. By an order dated 20.07.2012, the Senior Commandant, CISF unit NLC Neyveli, passed the following order:

“05..... Re-reinstatement in service will be regularized as per rule after rejoining for duty at this Unity”

8. It is evident from the above that the Senior Commandant, the reinstating authority has found that the petitioner was unaware of the registration of criminal case at the time of his appointment. Furthermore, the respondents have not provided any evidence to substantiate their claim that the petitioner was gainfully working or earning during the said seven year period. This Court in W.P.No.6929 of 2011 also found that petitioner's dismissal was arbitrary and that he was not given an opportunity to defend himself. The respondents have not filed any appeal against the findings and direction in W.P.No.6929 of 2011. Therefore, the arguments of the learned counsel for the respondent that the findings of this Court in WP.No.6929 of 2011 are contrary



to the facts of the cases is unacceptable. The department ought to have filed an appeal against the said order, which they failed to do so.

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9. Since the petitioner was forcibly terminated and later it was specifically found that the petitioner was not aware of any pending criminal case, and he has not suppressed any information, it is for the department to pay the backwages to the petitioner.

10. Accordingly, this Writ Petition is allowed and the letter bearing No.V-15014/CISF.NLC.CC/NBI/2012/0968 dated 09.10.2012 issued by the respondent is hereby quashed. The respondent is directed to regularize the intervening period between the date of termination (16.02.2005) to the date of reinstatement (04.08.2012) as duty period and provide backwages along with other consequential benefits to the petitioner within a period of 12 weeks from the date of receipt of copy of this order. No costs.

K. SURENDER, J.
18-11-2025

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Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No



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To

1.The Commandant

CISF Unit NLC Neyveli, Neyveli-607

801, Cuddalore District, Tamil Nadu



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K.SURENDER, J.

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