



W.A.(MD)No.1025 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.08.2025

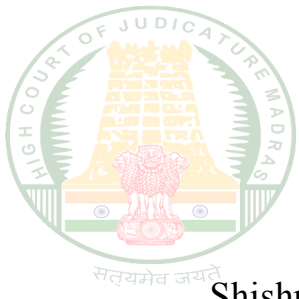
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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.1025 of 2020
and
C.M.P.(MD)No.5617 of 2020**

- 1.The Inspector General,
Central Industrial Security Force,
Western Sector, Head Quarters,
Mumbai.
 - 2.The Deputy Inspector General,
Central Industrial Security Force,
Department of Atomic Energy,
Zonal Head Quarters,
Electronics Corporation of India Limited Post,
Hyderabad, Andhra Pradesh.
 - 3.The Commandant,
Central Industrial Security Force Unit,
Nuclear Fuel Complex,
Hyderabad, Andhra Pradesh.
 - 4.The Unit Commandant,
Central Industrial Security Force Unit,
Kundankulam Nuclear Power Project,
Tirunelveli District,
Tamil Nadu.
- ... Appellants

Vs.



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Shishpal

... Respondent

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.6286 of 2011 dated 11.03.2020 on the file of this Court.

For Appellants : Mr.P.Subbiah,
Central Govt. Senior Panel Counsel.

For Respondent : Mr.D.Malaichamy

JUDGMENT
(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The writ petitioner is working as Constable in CISF. He was visited with charge memo dated 26.06.2009. The charge reads as follows:-

“Gross indiscipline, misconduct and violation of lawful orders in that CISF No.062303136 Constable Shishpal of CISF Unit NFC Hyderabad in violation of lawful instructions of superior has unauthorisedly visited to ladies hostel on 12-06-2009 at about 2100 hours and knocked the door of quarter



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No.1/7, where No. 074050051 Lady Constable Dimpi Kumari and No.074070028 Lady Constable Nisha Devi are staying, thus he generated a sense of insecurity in Lady constable Dimpi Kumari. The above act on the part of CISF No.062303136 Constable Shishpal amounts to gross indiscipline, misconduct, insubordination and violation of lawful instructions.”

3.Even according to the revisional authority, the action of the writ petitioner was rather innocent. Paragraph No.7 of the revisional authority's order reads as follows:-

“7. In view of the above discussion, it is revealed that Constable Shishpal CISF Unit, NFC Hyderabad visited ladies hostel on 12.6.2009 at about 21.00 hours a given call bell of quarter No.1/7, where Lady Constable Dimpi Kumari and Lady Constable Nisha Devi were staying. The petitioner, if it was necessary to pass urgent message to Lady Constable Nisha Devi, should have intimated the unit authority or have sought permission for visiting the Quarter which he did not do and went straightaway. Therefore, he was issued with show-cause notice tentatively proposing the penalty of "Removal from service" vide show cause notice No.(5517) dated 17.09.2010. He was also given an opportunity to express his pleas in person if he wishes to do so. Accordingly, he appeared in orderly room on 04.10.2010 and stated that he has family intimacy with Lady Constable Nisha Devi. As her elder sister was trying to contact



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her over phone to pass on urgent message but her phone was switch off. Therefore, her elder sister, who knew his cell number and dialed him and requested to communicate to Nisha Devi to either keep her phone switched on or to call her elder sister at her native place. Perceiving the urgency in mind, he called her by name for good number of times standing on the ground itself. But as she did not respond, he went upward, rang-up the bell and turned back to come down intimating the message while descending the stairs and left for Plant Site where other Dog handlers were staying. He did not figure out the problem involved in his innocent action before handedly least he would never have gone to pass on the message even in good faith. The above said individual has also submitted his reply to show-cause notice dated 04.10.2010 stating the above version.”

4.Taking into account all these aspects, the learned Single Judge vide order dated 11.03.2020 in W.P.(MD)No.6286 of 2011 modified the punishment as follows:-

“13.As it has already been stated that the charged officials has to obey the orders passed by the higher officials. Since there was an emergency, according to the petitioner, he had gone to the quarters and informed the same. Even though it amounts to misconduct, the punishment awarded for three years is excessive and this Court is of the view that the punishment can be modified to 'reduction of pay to the lowest stage ie., from Rs.7260 to Rs.



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6460 in the time scale of pay of Rs.5200-20200 + Rs.2000-GP (PB-1) for a period of one year with effect from the date of issue of the said order' and accordingly, the same is modified to that extent. In all other aspects, the penalty remains unaltered."

Questioning the same, this writ appeal has been filed.

5.The learned counsel for the appellants relied on a catena of case laws. They are as follows:-

"1.Union of India Vs. Datta Linga Toshatwad reported in (2005) 13 SCC 709.

2.State of Meghalaya Vs. Mecken Singh N.Marak reported in (2008) AIR (SC) 2862

3.Lucknow K.Gramin Bank Vs. Rajendra Singh reported in (2013) AIR (SC) 3540

4.Union of India Vs. P.Gunasekaran reported in (2015) AIR (SC) 545.

5.W.A.(MD)No.933 of 2019, dated 15.11.2019 (The Director General of Police, CISF, New Delhi Vs. M.Selvam).



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He contended that when once the finding of guilt has not been interfered with, the quantum of punishment should be left to the discretion of the authority. If the learned Single Judge was of the view that the punishment imposed on the writ petitioner suffered from the vice of dis-proportionality, the punishment could have been set aside and the matter remitted to the file of the appellants for fresh consideration.

6.Though these contentions are quite persuasive, we are not inclined to interfere at this point of time. This is for more than one reason. The cause of action arose way back in the year 2009. The writ petition was allowed in the year 2020. We are now in 2025. At this distance of time, no purpose will be served in making an order of remand. Further, even from the averments set out in the orders of the disciplinary authority as well as revisional authority, we form a opinion that no misconduct was committed by the writ petitioner. The writ petitioner only wanted to oblige the family of another member of the uniformed force. The act of the writ petitioner appears to have been mistaken by another woman constable. Her misunderstanding triggered the entire action.



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7.Taking into account the overall circumstances, we are of the view that the learned Single Judge has rightly exercised discretion in favour of the writ petitioner. Interference with the order of the learned Single Judge is not warranted and the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (K.R.S. J.)
11.08.2025

NCC : Yes/No
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