

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**FRIDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE ANIL KUMAR JUKANTI

WRIT PETITION NO: 6062 OF 2008

Between:

Gurdev Singh S/o.Sardar Puram Singh, Aged about 39 years Quarter No. A-43,CISF unit, NTPC,Ramagundam, Post Jyothinagar, Karimnagar District.

...PETITIONER

AND

1. The Central Industrial Security Force, Ministry of Home Affairs, Government of India, Rep by Inspector General, S.S Head Quarters,Chennai,
2. The Deputy Inspector Genral, Central Industrial Security Force, Southern Zone,Rajaji Bhavan Basanth Nagar,Chennai,
3. The Commandant, Central Industrial Security Force, RSTPS,Ramagundam,Post Jyothinagar, Karimnagar District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order direction or writ particularly one in the nature of writ of MANDAMUS or any other appropriate with (i) declaring the charge sheet vide proceedings No.V-15014/RSTPS R/BD-5/GDSINGH/O4/2005/1791 dated 21.06.2005 as illegal, arbitrary, and unjust (ii) declare the final order No.E-15014/RSTPS/R/D-5/GDSINGH/NO.4/2005/2961 dated 17.12.2005 as illegal and arbitrary (iii) declare the order No.V-11014/03/2006/L and R/(SZ)/6227 dated 6.11.2006 as modified vide letter No.V-11014/03/2006/L and R/(S2)706 dated 21.2.2007 as illegal and arbitrary (iv) declare the order No. V-11015/GDS/SS/2007-3007 dated 29th June, 2007 as illegal, arbitrary and unjust and (v) consequently direct the respondents to grant all consequential benefits

Counsel for the Petitioner: Smt. K. UDAYA SRI

**Counsel for the Respondents : SRI K. ARVIND KUMAR,
CENTRAL GOVERNMENT COUNSEL**

The Court made the following: ORDER

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT PETITION No.6062 OF 2008

ORDER:

This Writ Petition is filed to declare the charge sheet dated 21.06.2005, the final order dated 17.12.2005, the order dated 06.11.2006 as modified vide letter dated 21.02.2007 and also the order dated 29.06.2007 passed by the respondents, as illegal, arbitrary and unjust and consequently to direct the respondents to grant all consequential benefits to the petitioner.

2. Heard Smt. K. Udaya Sri, learned counsel for the petitioner and Sri K. Aravind Kumar, learned counsel for Central Government appearing for the respondents.

3. It is submitted by the learned counsel for the petitioner that the petitioner joined as a Constable in Central Industrial Security Force (hereinafter referred to as 'CISF') on 13.12.1990. Petitioner was sent on deputation to Delhi Police and that while working at Delhi, he fell sick on 21.07.2004 and has taken treatment. After recovery from sickness, the petitioner reported to duty along with fitness

certificate on 16.11.2004. He was informed that he was repatriated to his parent department of CISF at Ramagundam Unit. On knowing about the same, he lost control and fainted at the Delhi Office and was immediately shifted to a Hospital at Delhi for treatment and was discharged. The petitioner reported to duty on 23.03.2005 at Ramagundam. Petitioner was issued a charge memorandum on 21/22.06.2005 and the said charge is as follows:

“Charge:

The Delhi police by its letter dated 21.07.2004 has reported that as CISF Constable No.901408293, Gurudev Singh, CISF, RSTPS Unit had committed certain indiscipline and irregular acts, he was repatriated to his parent unit – CISF. He was to report before the CISF Head quarters on 21.07.2004, but he reported before the Head quarters on 09.03.2005. Thus, he availed leave for (232) days unauthorizedly and rendered liable for punishment.”

4. That he was to report before the CISF Head Quarters on 21.07.2004, but reported on 09.03.2005, absenting for 232 days unauthorizedly and hence, was liable for punishment. For the charge memo, he submitted an explanation dated 30.06.2005 requesting time and time was

granted. By a letter dated 16.07.2005, a detailed explanation was submitted by narrating the events and denying the charges. It is submitted that enquiry was conducted by initiating disciplinary proceedings and that the enquiry officer conducted enquiry in violation of principles of natural justice and no opportunity was granted. That the petitioner's father submitted a letter along with documents in the office of Delhi on 22.07.2005 and that the same was not received. A major penalty for unauthorized absence was imposed and the same is disproportionate to the gravity of charges made out in the charge memo. It is also contended that it is double punishment i.e., loss of pay for 232 days and the penalty imposed. Hence, the punishment imposed is severe and appropriate relief be granted by taking into consideration the said circumstances.

5. It is further contended that he was suffering with sickness and that the punishment imposed was harsh and even if charge is held to be proved, it does not warrant a major penalty. It is submitted that he put in 10 years of

service and has about 20 years of future service and reduction of pay by two incremental stages permanently would have an adverse impact on career and also a financial bearing on retirement benefits.

6. The learned counsel for the respondents contended that the petitioner was repatriated to CISF police from Delhi police on 21.07.2004 and he was to report at CISF Head Quarters, Delhi on 22.07.2004, but the petitioner has not reported on 22.07.2004 and he has reported to duty after 7 months 18 days i.e., on 10.02.2005. That he did not intimate the same to the concerned officer at Ramagundam Unit.

7. The learned counsel for the respondents in his submissions has referred to a letter dated 29.11.2004 of the office of the Commissioner of Police, Delhi wherein the petitioner is repatriated from Delhi Police (Serial No.26 the petitioner's name is shown) and his date of relieving is mentioned as 21.07.2004. It is further stated that when the delinquent officer sent a communication on 22.07.2004 to Assistant Commissioner of Police, Chanakyapuri, through

deputation in Delhi police expired and was repatriated to his parent Unit of CISF. It is also submitted that on repatriation, he was transferred to Ramagundam Thermal Power Station at Ramagundem. But, the petitioner did not report to duty at Ramagundem.

8. It is also contended that the petitioner was not employee of Delhi Police as he has been repatriated to CISF, Ramagundam Unit and it is for him to produce all the relevant documents to the appropriate authority at Ramagundam Unit.

9. It is submitted that the delinquent officer along with medical certificate dated 16.11.2004 went to ISC, Delhi Police, Chanakyapuri, to join duty. It was informed to him that he has been repatriated. Three recall letters dated 06.1.2005, 18.01.2005 and 27.01.2005 were sent to his address of native place and the officer received the third recall letter dated 27.01.2005.

10. The representation dated 10.02.2005 of the delinquent was received on 15.02.2005. The officer reported to duty on 09.03.2005 to the Chief Officer, CISF, New Delhi. The

delinquent officer without prior permission of the controlling officer unauthorizedly abstained from duty from 21.07.2004 to 09.03.2005 (232 days). On reporting to duty, on 10.03.2005 at the Chief Office, CISF, he was transferred and posted to the Unit of CISF at RTPS. The delinquent officer reported to duty at CISF Unit, RTPS on 23.03.2005. The delinquent officer has intentionally and deliberately abstained from duty from 21.07.2004 to 09.03.2005 without prior permission of the controlling officer which shows the gross dereliction of duties by the delinquent officer.

11. It is also submitted that the evidence of prosecution witnesses was recorded in the presence of the delinquent officer and an opportunity to cross examine the witnesses was availed satisfactorily by the officer. The delinquent officer was afforded with an opportunity to appoint a person to defend his case and the disciplinary proceedings against the officer were conducted as per Rules. His requests for granting time for submitting his explanation to the enquiry report was granted. It is further submitted that as per the facts stated supra, there was no

violation of the principles of natural justice and that the enquiry was conducted in accordance with the rules, hence, the contentions raised by the petitioner's counsel are without any basis and are devoid of merits.

12. It is submitted that the CISF is a disciplined force and not informing about his sickness to the higher officials within time and abstaining from duty, unauthorizedly, without obtaining any permission beyond the prescribed period would amount to dereliction of duty.

13. It is also contended that by order dated 21.02.2007 the office of the Deputy General of Police, CISF has taken a lenient view and has reduced the punishment of appellate order as below:

From: Reduction of pay by 02 stages from Rs.3795/- to Rs.3625/- in the time scale of pay of Rs.3,200-85-4900 for a period of 02 years with immediate effect. It is further directed that the delinquent officer will not earn the increments of pay during the period of reduction and that on expiry of the period, the reduction will have the effect of postponing his future increments of pay.

To: punishment imposed is reduced as below:

Reduction of pay by 02 stages from Rs.3710/- in the time scale of pay of Rs.3,200-85-4900 for a period of 02 years with immediate effect. It is further directed that the delinquent officer will not earn the increments of pay during the period of reduction and that on expiry of the period, the reduction will have the effect of postponing his future increments of pay.

14. Hence, the punishment, which has been imposed, is not disproportionate and the procedure and rules have been adhered during the proceedings, hence, no relief be granted.

15. The learned counsel for the respondents has relied upon the decision of a learned single Judge of this Court in Writ Petition No.8250 of 2020 dated 27.07.2023 for the proposition of unauthorized absence without leave. The learned counsel relied on the judgment of Apex court in **Union of India and others Vs Datta Linga Toshatwad¹** in Civil Appeal No.6785 of 2005 (filed by a memo dated 23.08.2023) for the proposition that a member of a uniformed force who overstays his leave by a few days must be able to give a satisfactory explanation. It is contended that Member(s) of the uniform forces cannot absent themselves on frivolous pleas, having regard to the nature of

¹ (2005) 13 SCC 709

the duties enjoyed on these forces. Such indiscipline, if it goes unpunished, will greatly affect the discipline of the forces.

16. In reply to the submissions of the respondents counsel, learned counsel for the petitioner has submitted that the facts in W.P.No.8250 of 2020 are not applicable to the present case as unauthorized absence is approximately two years in the said case and the reliance placed on the Apex Court's judgment is not applicable.

17. Heard the learned counsels, perused the record and the orders passed by the authorities. The punishment imposed is proportionate to the gravity of charges framed. The petitioner failed to join his duties and remained absent from duty, the petitioner is a member of disciplined force. One must be mindful of the fact that discipline is the implicit hallmark of such forces and a non-negotiable condition of service. Absence for a prolonged period, which if accepted, would send a wrong signal to others in service. The disciplinary authority having considered the entire material on record and the enquiry officer's report and the

evidence and exhibits placed on record has arrived at the conclusion that the delinquent officer is guilty of the charge framed against him and held that the charge is proved.

18. The scope for interference with the quantum of punishment under Article 226 of the Constitution of India is limited. There is no procedural impropriety and the decision arrived at is based on material on record. No grounds have been made out warranting interference in the order passed by the authorities. The revisional authority has modified the order of the disciplinary authority by reducing the punishment imposed. This Court is of the opinion that ends of justice would be met if the order of the revisional authority is upheld and the same is upheld.

19. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

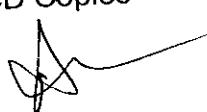
Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

SD/- MOHD. SANAULLAH ANSARI
ASSISTANT REGISTRAR
//TRUE COPY//
SECTION OFFICER

To,

1. One CC to Smt. K. UDAYA SRI, Advocate [OPUC]
2. One CC to SRI. K ARVIND KUMAR, CENTRAL GOVERNMENT COUNSEL [OPUC]
3. Two CD Copies

B M
GJ



HIGH COURT

DATED:29/12/2023



ORDER

WP.No.6062 of 2008

**DISMISSING THE WRIT PETITION
WITHOUT COSTS**

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29/3/2024