

(2014) 02 MAD CK 0076
In the Madras High Court
Case No : Writ Petition No. 24777 of 2011

P. Paramasivam

APPELLANT

Vs

The Director General Central Industrial Security Force and
Others

RESPONDENT

Date of Decision : 24-02-2014

Acts Referred:

Citation : (2014) LabIC 2091

Hon'ble Judges : T.S. Sivagnanam, J

Bench : Single Bench

Advocate : Ibrahim Ali for Mr. A.S. Mujibur Rahman, for the Appellant; R. Meenakshi, CGSC in WP. 24777/2011 and Mr. D.T. Janardhanan in WP. 7496/2012, for the Respondent

Final Decision : Dismissed

Judgement

T.S. Sivagnanam, J.—Both the writ petitioners are co-delinquents in the disciplinary action initiated by the Central Industrial Security Force and both the petitioners were removed from service. The orders of removal from service, confirmed by the appellate authority have been challenged by the petitioners raising identical grounds. Therefore, with the consent of the learned counsel appearing on either side, the Writ Petitions were heard together and are disposed of by this common order. Both the petitioners were appointed as Constables in the Central Industrial Security Force (CISF) and were detailed in I.S. duty Coy No. 409 to assist the local Police in maintaining law and order in Telangana Region of Andhra Pradesh. After the evening roll call on 14.01.2011, the petitioners without any intimation or permission from the competent authority went out of the Company on the pretext of fetching milk. Whilso, they were held by the local people on the allegation that they were enticing and befriend with two local girls with ulterior motive and tried to indulge with them in the act of immorality and were handed over to the Station House Officer of Tadwai Police Station. A preliminary enquiry was conducted by the Inspector, I.S. Duty, Coy

No. 409, in which the petitioners were found to be prima facie guilty and they were placed under suspension with effect from 15.01.2011. Thereafter, charge memorandums were issued by invoking Rule 36 of the CISF Rules, 2001. The petitioners submitted their reply to the charges framed against them and stated that they were not guilty of the allegations made in the charge memos. An enquiry officer was appointed and departmental enquiry was conducted in which, four prosecution witnesses were enquired and the petitioners also participated. The enquiry officer recorded a finding of guilt. The copy of the enquiry officer's report was forwarded to the petitioners to submit their further explanations. The disciplinary authority by order dated 24.5.2011 in exercise of the powers under Rule 32 read with Schedule-I and Rule 34 (ii) of the CISF Rules 2001, imposed the punishment of removal from service on the petitioners which shall not be a disqualification for future employment under the Government. The petitioners being aggrieved by such orders preferred appeals to the second respondent. The appeals came to be rejected by orders dated 05.09.2011. The petitioner in W.P. No. 24777 of 2011, did not file a revision by stating that it is a efficacious remedy and he approached this Court by way of this Writ Petition challenging the order of removal. However, the petitioner in W.P. No. 7496 of 2012, filed a Revision Petition before the Inspector General and the same was also rejected by an order dated 10.01.2012, and aggrieved over the same, he has come forward with W.P. No. 7496 of 2012.

2. Mr. Md. Ibrahim Ali, learned counsel appearing for Mr. A.S. Mujibur Rahman, for the petitioners submitted that the allegations in the charge memos are that the petitioners were found absent at about 08.00 p.m. after the evening roll call; that the petitioners have clearly stated that they have gone to procure milk from the Co-operative Society for their personal need and that was not doubted by the authorities nor found to be false. Therefore, there is no basis for such a charge. Further, it is contended that in the memorandum of charges, it was alleged that the petitioners tried to entice two ladies who were working as General Sweepers in Tadvai Police Station, residing close to the Police Station locality, however there was no evidence to prove any such enticement. It was further submitted that the charge proceeds on the basis that the petitioners were caught by local civilians. Therefore, the said allegation could not have been the basis of the charge. Further, it is submitted that the two ladies whose names have been referred in the charge memos have not given any complaint and no F.I.R. has been registered by the local Police. Further, it is submitted that the preliminary enquiry officer has become a witness in the domestic enquiry and all these infirmities in the disciplinary proceedings commencing from the issuance of the charge memos, culminating in the orders of removal, are illegal, the learned counsel pleaded that this Court should interfere with the orders of punishment.

3. Mrs. R. Meenakshi, learned Central Government Standing Counsel for the respondents in W.P. No. 24777 of 2011 and Mr. D.T. Janardhanan, learned counsel for the respondents in W.P. No. 7496 of 2012, referred to the counter affidavits filed to the writ petitions and submitted that the domestic enquiry was

conducted in a fair and reasonable manner and all opportunities have been afforded to the petitioners. Further, the petitioners did not raise any complaint of any violation of principles of natural justice. That apart, by referring to the counter affidavits, it is submitted that the complaint was given by the local people and merely because F.I.R. has not been registered by the local Police, that will not absolve the petitioners of the delinquency. Further, it is submitted that the petitioners belong to a disciplined force and they were detailed for internal security duty in Telangana Region which was a very sensitive area and such irresponsible and indiscipline conduct of the petitioners does not entitle them to be a member of a disciplined force viz. CISF.

4. I have heard the learned counsels appearing on either side and perused the materials available on record.

5. The petitioners were issued with Charge Memos in January 2011. Though the date of the charge memos are different, the allegations in the charge memos are identical. Therefore, it would suffice to quote the charges framed against the writ petitioner in W.P. No. 24777 of 2011 namely P. Paramasivam, which reads as follows:

ARTICLE OF CHARGE NO. I

That No. 034501319 Constable P. Paramasivan (U/S) of CISF under Salarjung Museum, Hyderabad who was deployed on IS duty in Platoon No. 02, Company No. 409, to assist the police authority to maintain Law & Order duties in Telangana Region in A.P. and camped at Police Station Tadwai was found absent from Police lines on 14.01.2011 at about 2000 hrs without any information/prior permission from the Platoon Commander. This act on the part of No. 034501319 Constable P. Paramasivam (U/S) amounts to an act of gross misconduct, indiscipline and un-becoming of a member of the Armed Force of the Union. Hence the charge.

ARTICLE OF CHARGE NO. II

That No. 034501319 Constable P. Paramasivan (U/S) of CISF under Salarjung Museum, Hyderabad, while on IS duty in Platoon No. 02 Company No. 409 to maintain Law & amp; Order duties in Telangana Region, camped at Police Station Tadwai had went out to nearby area of Tadwai Police station on 14.01.2011 at about 2000 Hrs. and tried to entice and befriend with two local ladies namely Madhu and Swapna who were performing Sweeper work as casual labours in the police station Tadwai with ulterior motive and tried to indulge with them in the act of moral turpitude. This act on the part of No. 034501319 Constable P. Paramasivan (U/S) amounts to an act of gross misconduct, indiscipline and un-becoming of a member of the Armed Force of the Union thereby tarnishing the image of the Force and creating embarrassment situation for CISF organization in the eyes of general public when the local people are indulging in various turmoiled situations demanding separate Telangana State. Hence the charge.

6. The petitioners submitted their explanations denying the allegations in the charge memos. The disciplinary authority, appointed an enquiry officer to conduct the enquiry. Admittedly, the petitioners did not raise any objection as regards the nomination of the enquiry officer or such other matters, but, have willingly participated in the domestic enquiry which was conducted by the enquiry officer. The Presenting Officer had also submitted his contentions in writing, for which the petitioners were given an opportunity to submit their further written brief against the brief note of the Presenting Officer. Copies of those documents have been filed in the typed set of papers.

7. In the domestic enquiry, the Inspector of CIF Unit, BHEL, Hyderabad, was examined as P.W.1. The Assistant Sub-Inspector of CISF Unit SJM was examined as P.W.2, the writ petitioner in W.P. No. 7496 of 2012, namely Arvind Kumar was examined as P.W.3 and in the enquiry conducted in the case of the petitioner Arvind Kumar, the writ petitioner in W.P. No. 24777 of 2011 namely P. Paramasivam, was examined as P.W.3 and vice versa. The Sub-Inspector of Police, Tadwai Police Station, Nizamabad, Andhra Pradesh, was examined as P.W.4. Both the petitioners examined themselves as defence witnesses.

8. As noticed above, there is no contest as regards the legality or the manner in which the domestic enquiry was conducted. In other words, there is no challenge to the domestic enquiry on any technical grounds. The sheet anchor of the case of the petitioners as focused by the learned counsel is that explanations were given by the petitioners for their absence on the said date after 8.00 p.m.; that there was no proof to establish the allegation of enticement of those two ladies and that apart in the absence of any complaint by the ladies or by the local public, the petitioners ought not to have been penalised and the major penalty of removal could not have been imposed.

9. On a careful reading of the enquiry officer's report, the case against the petitioners are that after the roll call in the evening, they have left their designated area admittedly, without any written orders. Their explanation is that they went to procure milk in the nearby Co-operative Society. It is an admitted fact that the petitioners met the two ladies namely Madhu aged about 16 years and Swapna aged about 18 years. Those two ladies were working as general sweepers in the Tadwai Police Station, in which the petitioners were detailed for internal security work in Telangana Region. There is no denial of the fact that the petitioners had met those two ladies. The further charge is that they have lured them and took them to a remote area about 50 mtrs to 100 mtrs away to befriend them and misbehave with the girls. That incident came to light, the local people had caught the petitioners and informed the Sub Inspector of Police, Tadwai Police Station, who came along with his staff to the spot and took them to the Tadwai Police Station, who conducted an enquiry immediately and informed the matter to Shri Reddy Gangadhar Rao, SDPO, Kamareddy District, Nizamabad (A.P.) and he also informed the matter to Circle Inspector of Police, Bhiknoor over telephone. Thereafter, he also informed the entire matter to Mr. G.S. Nair,

the then Coy Commander/RI of CISF Coy No. 409, stationed at Kamareddy. Thereafter, the Sub Inspector has reported the matter to the CISF for necessary action against the petitioners at their end. The copy of those communications sent by the Sub Inspector of Police, Tadwai Police Station was produced before the domestic enquiry.

10. The petitioner in W.P. No. 24777 of 2011, who examined himself in the defence has stated that he was taking milk for his personal use from the Co-operative Society near to the Tadwai Police Station and while coming back to the Police Station with the other writ petitioner, he noticed two local girls namely Madhu and Swapna who were working as casual sweepers in the Police Station followed them behind and he has admitted that while talking to those girls on the road some local youths gathered and have beaten the girls and asked the petitioners as to why they were talking to the girls. Further, the petitioner has admitted that one of the youths who questioned him had informed the Sub Inspector of Police, Tadwai Police Station (P.W.4), who came along with his staff to the spot and took the petitioner for further enquiry.

11. The petitioner in W.P. No. 7496 of 2012, in his defence statement in the course of the enquiry stated that one of the girls was found working in Police Station as sweeper and he had gone to the sub-road for passing urine and there was no intention on his part. Further, he confirmed that the Coy. Commander and the Battalion Commander arrived to Tadwai Police Station, were the platoons were advised not to go anywhere without the permission of the Coy. Commander as the area was very sensitive. Further, he stated that the girls were talking to the other writ petitioner namely Paramasivam and he was not aware of what they were talking.

12. P.Ws. 1 to 3 have also given their version before the enquiry officer and it is an admitted fact that no F.I.R. was registered against the petitioners by the local Police. The enquiry officer recorded that the petitioner Paramasivam in his statement has admitted that he has gone out at 20.00 hours from the platoon lines located at Tadwai Police station, after the evening roll call along with the other writ petitioner Arvind Kumar of the same platoon, to the nearby Co-operative Society to fetch milk for their personal use and while returning back after purchasing milk, they interacted with two girls and spoke with them. It is the further statement of the petitioner Paramasivam that he knew both the girls and it was also admitted that he had gone in a sub-road approximately 15 mtrs away, in a remote area along with the girls and while they were talking with the girls, the local youths of that area came there and detained him along with other writ petitioner Arvind Kumar and informed the matter to the Station House Officer who came and brought them to the Police Station.

13. The enquiry officer culled out the undisputed facts from the statement of the prosecution witnesses as well as the petitioners, the disputed facts were culled out separately and rendered the following findings in respect of the petitioner in W.P. No. 24777 of 2011 namely P. Paramasivan:

FINDINGS:

1. On 24.01.2011, Bn. Commander along with Coy. Commander visited at the PS Tadwai at 1700 hrs. The battalion Commander inspected the accommodation of platoon No. 2 and mess etc. And briefed the personnel regarding discipline to be maintained on IS Duty in the civil area including does and don'ts.
2. After departure of the Bn. Commander from the location on 14.01.2011, CISF No. 034501319 Const. P. Paramasivam (CO) of CISF Unit SJM Hyderabad went out between 1900 hrs to 2000 hrs without any intimation or permission from the platoon commander No. 753280285 ASI/E R Ramachandraiah (PW-2) of CISF Unit SJM Hyderabad.
3. At a remote area of approximately about 50 to 100 mtrs away from PS Tadwai, No. 034501319 Constable P. Paramasivam of CISF Unit SJM Hyderabad was found along with two local girls namely Madhu and Swapna and was trying to entice both the girls to indulge in immoral activities.
4. Both the above mentioned ladies namely Madhu and Swapna (as learned from the Police station/police report) were working as casual daily labours and performing housekeeping and sweeping work in the Police Station and they are staying in the nearby juggi/jhopadi. Meeting the unknown personnel (i.e. CISF personnel) at a remote place after evening hours also make the character of both the above mentioned sweeper women questionable. It appears it may be a consensual agreement by both the ladies with the CISF personnel to indulge in immoral activities.
5. Some of the local youths after noticing some suspected movements and noise at the remote place, they observed CISF Constables P. Paramasivam was luring to local girls of their area namely Madhu and Swapna and enticing them to indulge in an act of immoral turpitude. They immediately caught him along with the girls and detained them, then handed over to SHO (P.W.4) of PS Tadwai.
6. The meeting between the above mentioned girls (Madhu & Swapna) and the CISF Constables P. Paramasivam and Arvind Kumar took place between 1930 hrs to 2000 hrs on 14.01.2011 at a remote place at about 50-100 mtrs away from the Police station as a result of the mutual consent for indulging in immoral activity. However, due to the timely intervention and detection of the incident by the local youths, the immoral activity could not be committed. Both the above mentioned CISF Constables (P. Paramasivam and Arvind Kumar) were caught and detained by the local youths and subsequently handed over to the Tadwai Police Station.
7. No F.I.R. has been lodged till date by the local youths or by the girls (Madhu and Swapna) against the above mentioned CISF Constables.
8. Based on the written complaint in Telugu dated 14.01.2011 as discussed above, the local police mentioned it in the police general diary and referred the complaint to the then Coy. Commander CISF Coy No. 409 for taking

departmental action.

9. The personnel were regularly briefed by the Platoon Commander in the roll call not to go out of the police lines/camp after roll call (evening hours) and also to avoid unwanted movements in the civil areas and interaction with civilians.

10. Elaborate instructions have also been issued by the Battalion Commander prior to the movement of the force for law and order duty and also routine briefing by various supervisory officers (AC & amp; Commandant) during their visits as discussed above.

11. In spite of the above, both the Constables went out after roll call between 1930 hrs and 2000 hrs without intimation or permission from the then Platoon Commander ASI/Exe. R. Ramachandran and tried to entice and befriend with two local ladies with ulterior motive.

12. The above discussed documents on record as evidence and the statement of witnesses (P.W.-1 to P.W. 4) recorded during the enquiry are material evidence to prove the case beyond any doubt against Const. P. Paramasivam (CO).

14. In so far as the enquiry conducted against the petitioner Arvind Kumar, a similar procedure was followed by the enquiry officer and recorded the following findings:

ANALYSIS, DISCUSSION AND FINDINGS

On thorough analysis of the statements of Pws, Exhibits adduced and the circumstantial evidence, the following facts have come into light:-

1. CISF No. 094600012 Constable Arvind Kumar (U/S) of CISF Unit HPCL-VR Vizag deployed in CISF coy No. 409 deployed for law and order (I.S.) Inter Services duties in the state of A.P. during Telengana agitation and was in Platoon No. 02, deployed at Tadwai Police Station, Nizamabad Distt. w.e.f. 24.12.2010 (F/N) and ASI/Exe Company Commander and commandant Shri. Mamun-Ur-Rashid as the Bn. Commander supported by (PW-1 Exhibit 01, 2 & amp; 3).

2. No. 034501319 Constable (U/S) P. Paramasivam, PW-04 of CISF Unit SJM Hyderabad was also detailed in CISF coy No. 409 for law and order (I.S.) Inter Services duties in the state of A.P. and was in Platoon No. 02, deployed at Tadwai Police station along with charged official CISF No. 094600012 Constable Arvind Kumar (U/S) of CISF Unit HPCL VR Vizag, in the district of Nizamabad w.e.f. 24.12.2010 (F/N) and ASI/Exe R. Ramachandraiah of CISF Unit SJM Hyderabad was his Platoon Commander, (PW-1 Exhibit-01 and 02).

3. On 14.01.2011, the Bn. Commander accompanied by the Coy Commander Insp./Exe G.S. Nair (P.W.-1) have briefed the CISF personnel not to leave the Police Lines without proper permission or information from the competent authority keeping in view of the vulnerability and the sensitivity of the area in which they were deployed. The instructions contained in the Office memorandum No. (7694) dated 23.12.2010 (PW-1/Exhibit-3) were informed to the CISF

personnel.

4. In gross defiance of orders, CISF No. 094600012 Constable Arvind Kumar (U/S) of CISF Unit HPCL-VR Vizag didn't take any written permission from the competent authority and left to the nearby dairy for fetching milk and thus remained absent from the unit line of Tadwai Police Station at about 2000 hrs. on 14.01.2011 (PW-03 Exhibit-01 & P.W.-2 & P.W.-3). The same has also been confirmed by the charged official himself and P.W.4.

5. Shri Mamun Ur Rashid, Bn. Commander had issued written orders also vide Office Memorandum No. E.42099/BHEL (R)/Adm-1/26/207/7694 dated 23.12.2010 under the subject head Deployment of CISF Personnel for maintaining law and order duty in the state of A.P. instructions in which point No. E, F, G, K clearly states that nobody will indulge in any indiscipline activity which may tarnish the image of the Force, not to leave the area of responsibility without permission/intimation from superior authority, not to move out after roll call from the unit lines without permission as most of the area is very sensitivity and naxal infested, avoid visiting around the market areas shops, Dhabas & Tea stall while not on duty (PW-01 Exhibit-03) and the same was briefed verbally by Bn. Commander during his visit at Tadwai Police station along with Coy Commander and platoon commander during roll call. (PW-03, exhibit-01).

6. The Charged officials, CISF No. 094600012 Constable Arvind Kumar (U/S) of CISF Unit HPCL-VR Vizag along with Constable P. Paramasivam who was in the same platoon went outside the unit line of Tadwai police station and at 2000 hrs. on 14.01.2011 and found along with two girls who were engaged in labor work at Tadwai police station. Local villagers informed the matter to police and SI of Police along with his staff immediately rushed to the spot and brought the Charged Official along with Constable P. Paramasivam to Police Station (P.W.-02 Exhibit-01) (PW-01 Exhibit-08) and the same was admitted by charged officials and P.W.-04 and PW-03).

7. The Charged Official No. 094600012 Constable Arvind Kumar (U/S) of CISF Unit HPCL (VR) Vizag stated that PW-01, PW-02, PW-03 never issued any office memorandum to the charged official on or before 14.01.2011 to get written permission from the platoon commander to go outside in support of the article of charge No. 01 and given the reference of the clause (iii) of sub rule (2) of rule No. 3 CCS Conduct rule that the direction of the official superior shall ordinarily be in writing. Oral direction to the subordinates shall be avoided, as far as possible, where the issues of oral direction become unavoidable; the official superior shall confirm it in writing immediately thereafter but the written orders in this regard has been produced in front of the charged official by PO through (PW-01 Exhibit-03) Vide letter No. E-42099/BHEL(R)/Adm-1/26/20/7694 dated 23.12.2010 under the subject head Deployment of CISF Personnel for maintaining law and order duty in the state of A.P. instructions in which point Number E, F, G, K respectively and Clearly states that nobody will indulge in any indiscipline activity which may turn off the image of the Force, not to leave the

area of responsibility without permission/intimation from superior authority, not to move out after roll call from the unit lines without permission as most of the area is very sensitive and naxal infested. Avoid visiting around the market areas, shops, Dhabas & amp; Tea stall while not on duty respectively and the same points were briefed by Platoon commander during roll call to the personnel deployed for law and order duty as the area is sensitive and nobody will leave the unit line after roll call. It is a general order meant for all the CISF personnel deployed for Law and Order duties and the onus lies on the charged official to know the orders in vogue and adhere to these instructions.

8. No. 094600012 Constable, Constable Arvind Kumar (U/S) of CISF Unit HPCL (VR) Vizag stated that PW-02 & amp; PW-03 to P.W.-01, that the charged official caught along with 02 local girls by the local youths at a remote place near Tadwai police station while they were enticing them for illegal deeds and they have been brought to the police station Tadwai by the SI and the staff of Tadwai police station. The CO. No. 094600012 Constable Arvind Kumar (U/S) of CISF Unit HPCL (VR) Vizag not accepted this statement stating that it is not sufficient as the support of article of charge no. 02 as the ladies didn't submit any complaint against the charged official in the department or in the local police station, the PW-01 PW-02 & PW-03 were not present on the spot at about 2000 hrs. The charged official has taken a recourse that no complaint was lodged by these ladies in order to escape from the charges. But, his contention only lessens the gravity of his offence, but the charged official cannot be absolved off the allegations made against him that he was to commit a moral turpitude act, if not intervened by the local youths. Had there been a complaint on the part of the girls either to the Police or to the Departmental, it would have put the charged official in embarrassing position in particular and the department in general and he would have been arrested by the Police on lodging a criminal case against him. It clearly reveals that the charged official along with the Constable P. Paramasivam went to the spot only for those girls and while they were engaged in talking to the girls, the local villagers spotted out them and seeing their activities they have beaten the girls and informed the matter to local police station and also told the CISF Constable Arvind Kumar (CO) & Constable P. Paramasivam that these are not good girls in terms of their character.

9. As the district in which they deployed itself is infested with naxals and there is agitation for a Separate Telangana state, it is imperative on the part of the charged official and others deployed in this area to remain vigilant and alert and to resort to such type of moral turpitude act that has tarnished the image of the Force No. 094600012 Constable Arvind Kumar (U/S) and Constable P. Paramasivam know very well that the girls are working as Casual Labor at Tadwai Police Station.

10. After enquiry the SHO submitted the report to CISF Company against CO No. 094600012 Constable Arvind Kumar and Constable P. Paramasivam for not taking disciplinary action as this type of involvement in such immoral activity by CISF

Constables could tarnish the image of the force and results in increasing the law and order problem in the area, as the area is already disturbed and sensitive.

11. The materials evidence is quite clear and statement itself of charged official and the complaint of SHO circumstantial evidence clearly indicate that both No. 094600012 Constable Arvind Kumar (U/S) of CISF Unit HPCL (VR) Vizag (CO) and his colleague const Paramasivam went to the other side of the sub road along with the girls to commit a moral turpitude act and later in order to cover up their mistake have tried to cook a story that the girls were quarrelling with each other and they were trying to compromise and went to the other side of the road to pass the urinal has not merits and deserves to be rejected.

15. With the above findings, the enquiry officer submitted a report holding that the charges were proved. The copy of the enquiry reports were communicated to both petitioners, who have also submitted their further explanations. The disciplinary authority taking note of the reports of the enquiry officer, the further explanations submitted by the petitioners and the other documents which were placed in the course of enquiry, held that the act of leaving Tadwai Police line without intimation or permission on the part of the charged officials has been proved through corroborative statements of the prosecution witnesses including P.W.3, who is the petitioner in W.P. No. 7496 of 2012, namely Arvind Kumar, as well as the documents produced by them during the course of enquiry.

16. That apart, it was pointed out that some local youths noticing and suspecting moves and the noise at remote place, observed that the petitioners were luring the local girls and enticing them to indulge in the acts of immorality and the local people caught them along with the girls, detained them, informed the local police and P.W.4-Sub Inspector of Police, Tadwai Police Station rushed to the spot and brought both the petitioners to the Police Station, informed the CISF authorities about the incidence. P.W.4-Sub Inspector of Police has made a G.D. Entry to that effect which was produced during the course of departmental enquiry. That apart, one of the local civilians namely D. Ramulu S/o Balaiah has given a complaint to the police which has also been marked as Exhibit during domestic enquiry. Therefore, considering the entire facts and the documents available during the course of domestic enquiry, the disciplinary authority held that the indiscipline activities of the petitioners being a member of an armed force is unpardonable and they were to be stringently punished for the proven acts of misconduct of indiscipline which has ultimately resulted them to be incompetent to be a member of the Armed Force of the Unit.

17. In so far as the case relating to the petitioner Arvind Kumar, the disciplinary authority considered the defence raised by the petitioner in his written reply against the findings of the enquiry officer and rejected it by stating that there was evidence on the side of the prosecution which has been properly corroborated and the contention of the petitioner that certain questions during enquiry were not recorded, cannot be entertained at that stage and the enquiry officer having analysed all the oral and documentary evidence, held the charge

as proved and independently applying his mind observed that, but for the timely intervention of some local people and the local Police Station, the situation has been averted from being turning into an ugly incident and the indiscipline activities on the part of the petitioners is unpardonable. The petitioners preferred appeals before the second respondent. However, the second respondent by a speaking order has rejected the appeals.

18. A perusal of the orders passed by the appellate authority clearly establishes due application of mind. The petitioners having not been able to point out any substantial issues so as to reject the orders passed by the First Appellate Authority. The petitioner Arvind Kumar filed a Revision Petition before the Inspector General and the same was also rejected by an order dated 10.01.2012 and from a bare perusal of the order passed by the Revisional Authority, it is manifestly clear that the Revisional Authority has also independently applied his mind to the issue. As rightly observed by the Revisional Authority, lodging of F.I.R. or complaint is for the personal decision of the girls or the villagers. In any event, as recorded by the disciplinary authority, one local civilian has given a complaint to the Police and there was also a G.D. Entry made by the Sub-Inspector of Police, Tadvai Police Station, which was produced at the time of enquiry.

19. Thus, on a cumulative consideration of all the circumstances, it is evident that the petitioners were afforded full, effective and reasonable opportunity to defend themselves in the domestic enquiry. The disciplinary authority has applied his mind to the issues, considered the reports of the enquiry officer, the documents filed by the enquiry officer as well as the further objections submitted by the petitioners on the findings of the enquiry officer and then imposed the punishment. In the absence of any cogent reasons, to reject the finding of fact, this Court cannot sit as Appellate Authority over the findings of the disciplinary authority. Moreso, this Court cannot substitute its view to that of the views recorded by the disciplinary authority. That apart, the petitioners belong to the disciplined force viz. an Armed Force and detailed in a sensitive area for intelligence work to work as team along with local police. The petitioners have admitted of having met those two girls. This Court cannot make a hair-splitting exercise to analyse the evidence in the domestic enquiry or pick holes in the statements recorded in the domestic enquiry. It is a settled legal principle that strict rules of evidence are not applicable in departmental proceedings. The delinquents are entitled to be informed of the charge and they should be given adequate opportunity to defend themselves against the same.

20. Since those procedures have been fully complied with in the case on hand, no error can be attributed to the orders passed by the disciplinary authority removing the petitioners from service and this Court considering the facts and circumstance of the case cannot substitute its views to that of the findings recorded by the enquiry officer or the reasons recorded by the disciplinary authority. The Appellate Authority has also assigned independent reasons and

the order reflects the due application of mind. That would be sufficient to uphold the order of the Appellate authority.

21. In so far as petitioner in W.P. No. 7496 of 2012 namely Arvind Kumar, is concerned, he has filed a Revision Petition before the Inspector General of CISF, who has also applied his mind, considered the entire matter and passed order. Therefore, this Court cannot act as a second Appellate authority over the Appellate Authority/Revisional Authority and substitute its views found on the findings recorded in the domestic enquiry. This Court has not lost sight of the fact that the petitioners belong to a discipline force and they were detailed for intelligence duty in a sensitive area.

22. Thus, considering the overall circumstances of the case and the manner in which the domestic enquiry has been conducted, the complaint given by the local public and the petitioners having not denied that they have met the girls in a remote area far away from the Police Station, there are no grounds to interfere with the impugned order. Further, it is to be pointed out that the petitioners have not been dismissed from service, but, they have been removed from service and the orders state that the punishment would not amount to disqualification for any employment in the Government. This is all the more a reason for this Court to decline to interfere in the impugned orders. Accordingly, the Writ Petitions having been devoid of merits being dismissed. No costs.