

IN THE SUPREME COURT OF INDIA**CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NO.4601 OF 2009****GOVERNMENT OF INDIA AND OTHERS****Appellant(s)****Versus****V. SHANMUGANANTHAN****Respondent(s)****O R D E R**

1. Heard learned counsel for the parties at length.
2. This appeal by special leave is directed against the judgment and order dated 19.01.2007 passed by the High Court of Judicature at Madras in Writ Petition No. 13804 of 2001 whereby the High Court allowed the writ petition filed by the respondent herein and set aside the order of punishment of removal from service imposed on the respondent while holding that the respondent is not entitled to any back wages.
3. This appeal relates to a checkered career.
4. The starting point of this litigation is transfer of the respondent from New Delhi to Oil Duliajan (Assam) in the month of December, 1993. At that point of time, the respondent was working as an Inspector of Central Industrial Security Force (hereinafter referred to as the 'CISF') in New Delhi. He was required to report at CISF Unit, Oil Duliajan on 28.12.1993. However, the respondent failed to do so and did not join after getting the relieving order on 13.12.1993.
5. Since the respondent did not report for duty for 2 years and 4 months,

despite the call up notice being sent to him on 30th May, 1994, a charge memorandum under Rule 34 of CISF Rules, 1969 was issued to him on 21st August, 1995 for unauthorizedly overstaying the joining time. On 20th October, 1995, the respondent submitted his representation and pleaded not guilty. The respondent asserted that this inability of his to report, was owing to him meeting with an accident in Delhi on 06.12.1993.

6. Thereafter, disciplinary proceedings were initiated against the respondent. The disciplinary authority, Commandant, CISF Unit, Oil Duliajan passed an order on 31.07.1997 exonerating the respondent from the charges.
7. This order was *suo-moto* reviewed by DIG, CISF, Oil Duliajan on 13.08.2000 who awarded penalty of withholding one increment for a period of 3 years with cumulative effect. The respondent went on a revision against the same wherein, Secretary, Ministry of Home Affairs set aside the *suo-moto* review but directed a *de novo* enquiry from the stage of conclusion of evidence on ground of discrepancy in medical papers.
8. During the course of this *de novo* enquiry, the Disciplinary Authority awarded penalty of “*removal from service*” to the respondent on 02.02.2000 which was therein confirmed by the Appellate Authority on 08.05.2000 and Revisional Authority on 24.05.2001.
9. The respondent approached the Madras High Court against the same which in the exercise of its writ jurisdiction partly allowed the appeal and quashed the punishment for being disproportionate and exorbitant. However, the respondent was held not to be entitled to back-wages, though period of his

leave was to be counted for all service benefits.

10. Pursuant to this order of Madras High Court, the respondent approached the appellants for reinstatement in service. This was, however, responded to by a letter dated 7th/8th June, 2007, which reads as under,

“REGD./AD POST

Government of India
Office of the Inspector General
Central Industrial Security Force/NES
(Ministry of Home Affairs)

Premises No.553,
Kolkata Township,
Kasba, Kolkata-107

No.V-14013/NES/LC/2001/3215

Dated:07/08 June,07

To
V.Shanmuganathan,Ex-Insp/Min. (Address as per writ petition)
S/o K. Vairakannu,
Plot No.57, Kannammal Street,
Gurusamy Nagar,
Madanandapuram,
Porur, Chennai 600 116

Subject: WP NO. 13804/2001 FILED BY EX-INSP/MIN.V.
SHANMUGANATHAN FORMERLY OF CISF UNIT 12TH RES. BN. FARAKKA
IN HIGH COURT OF JUDICATURE AT MADRAS

It is to inform you that your application dated 12.05.2007 for re-instatement in service with reference to judgment and order dated 19.01.2007 passed by the Hon'ble High Court of Judicature at Madras has been received by FHQrs. A SLP has been filed before the Hon'ble Supreme Court on 10.05.2007 against the above judgment order. On disposal of the same further action will be taken.

(VED PRAKASH)
ADDL.DY.INSPECTOR GENERAL
FOR INSPECTOR GENERAL/NES”

11. It is owing to this communication that the respondent claims that he could not join the services. The respondent superannuated in 2010.
12. Taking into consideration all the facts and after hearing the learned

counsel for the parties at length, we think it proper to modify the order passed by the High Court to the following extent:-

The punishment of the respondent is substituted to be of “*compulsory retirement from service*” from that of “*removal from service*”. However, the respondent is entitled to retiral benefits, as per Rules, from the date of the letter issued by the appellants, owing to which he was not reinstated in the service pending disposal of present proceedings, i.e. from 07th/08th June, 2007.

13. With the above observations, this appeal is disposed of.

14. No order as to costs.

.....J.
(N.V. RAMANA)

.....J.
(MOHAN M. SHANTANAGOUDAR)

New Delhi,
October 25, 2018