

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 25174 of 2014 (V)

PETITIONER:

**K.J.JOY, AGED 62 YEARS, S/O.K.C.JOHN,
(RETD. DIVISIONAL SECURITY COMMISSIONER/
RAILWAY PROTECTION FORCE/SOUTHERN RAILWAY/
TRIVANDRUM DIVISION), RESIDING AT: NO.TC.11/1710(3),
KARIMATTOM HOUSE, CHARACHIRA JUNCTION,
NANTHENCODE, KOWDIAR P.O.,
THIRUVANANTHAPURAM - 695 003.**

**BY ADVS.SRI.T.C.GOVINDA SWAMY
SMT.KALA T.GOPI
SMT.S.SYAMALA DEVI
SMT.T.N.SREEKALA**

RESPONDENT(S):

- 1. UNION OF INDIA, REPRESENTED BY
THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF RAILWAYS, NEW DELHI - 110 001.**
- 2. THE DIRECTOR GENERAL,
RAILWAY PROTECTION FORCE, RAIL BHAVAN,
NEW DELHI - 110 001.**
- 3. THE INSPECTOR GENERAL (ADMN),
RAILWAY PROTECTION FORCE, RAIL BHAVAN,
NEW DELHI - 110 001.**
- 4. THE DEPUTY INSPECTOR GENERAL (R&T) &
THE CHIEF PUBLIC INFORMATION OFFICER,
RAILWAY PROTECTION FORCE, RAIL BHAVAN,
NEW DELHI - 110 001.**
- 5. THE CHIEF SECUTIRY COMMISSIONER,
RAILWAY PROTECTION FORCE, SOUTHERN RAILWAY,
HEADQUARTERS OFFICE, PARK TOWN P.O., CHENNAI - 600 003.**

BY SRI.TOJAN J.VATHIKULAM, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1:** A TRUE COPY OF RAILWAY BOARD ORDER BEARING NO.RBE 233/99, DATED 01.10.1999.
- EXHIBIT P2:** A TRUE COPY OF LETTER BEARING NO.2002/SEC(E)/PM-2/2/10491 DATED 04/09.10.2002 ISSUED FROM THE OFFICE OF THE 1ST RESPONDENT.
- EXHIBIT P3:** A TRUE COPY OF ORDER BEARING NO.2001/SEC(E)/PM-2/1/11896 DATED 14.11.2002 ISSUED FROM THE OFFICE OF THE 1ST RESPONDENT.
- EXHIBIT P4:** A TRUE COPY OF LETTER BEARING NO.X/P.608/ACP/IPF DATED 05.11.2002 ISSUED BY THE 5TH RESPONDENT.
- EXHIBIT P5:** A TRUE COPY OF LETTER BEARING NO.XP.508/KJ DATED 30.5.2005 ISSUED BY THE 5TH RESPONDENT.
- EXHIBIT P6:** A TRUE COPY OF REPRESENTATION DATED 12.12.2012, ADDRESSED TO PUBLIC INFORMATION OFFICER IN THE OFFICE OF THE 4TH RESPONDENT.
- EXHIBIT P7:** A TRUE COPY OF LETTER BEARING NO.2013/SEC(E)/RTI-31 DATED 25.02.2013 ISSUED FROM THE OFFICE OF THE 4TH RESPONDENT.
- EXHIBIT P8:** A TRUE COPY OF REPRESENTATION ADDRESSED TO THE 2ND RESPONDENT DATED 05.06.2013.
- EXHIBIT P9:** A TRUE COPY OF LETTER BEARING NO.2013/SEC(E)/RTI-31 DATED 30.09.2013 ISSUED BY THE 4TH RESPONDENT.
- EXHIBIT P10:** A TRUE COPY OF LETTER BEARING NO.2013/SEC(E)RTI-221 DATED 29.11.2013 ALONG WITH ITS ENCLOSURE ISSUED FROM THE OFFICE OF THE 4TH RESPONDENT.
- EXHIBIT P11:** A TRUE COPY OF REPRESENTATION DATED 10.10.2013 ADDRESSED TO THE 4TH RESPONDENT.
- EXHIBIT P12:** A TRUE COPY OF LETTER BEARING NO.2013/SEC(E)RTI-223 DATED 24.12.2013 ISSUED FROM THE OFFICE OF THE 4TH RESPONDENT.
- EXHIBIT P13:** A TRUE COPY OF REPRESENTATION DATED 07.03.2013, ADDRESSED TO THE 3RD RESPONDENT.
- EXHIBIT P14:** A TRUE COPY OF COMMUNICATION BEARING NO.VO/NG/56/902/2002 DATED 21.11.2002 ISSUED ON BEHALF OF THE CHIEF VIGILANCE OFFICER TO THE 5TH RESPONDENT.
- EXHIBIT P15:** A TRUE COPY OF REPRESENTATION DATED 5.12.2014 ADDRESSED TO THE DIRECTOR GENERAL RPF, SUBMITTED BY THE PETITIONER.

RESPONDENT(S)' EXHIBITS:

- NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.25174 of 2014

Dated this the 15th day of January, 2015

JUDGMENT

The petitioner superannuated from service on 31.7.2012 as DSC/RPF, Thiruvananthapuram Division of Southern Railway. The petitioner was originally appointed as a Sub Inspector of Railway Protection Force on 17.3.1977. Thereafter, the petitioner was promoted as Inspector of Railway Protection Force with effect from 1.4.1983. On 16.3.2001, the petitioner had completed 24 years of service. Therefore, it is submitted that on introduction of ACP Scheme, he was eligible and entitled to be considered and granted the benefit of the 2nd financial up-gradation in the scale of pay Rs.8000-13500 with effect from 17.3.2001. The petitioner submits that he had availed only one promotion as Inspector of RPF. The next promotion in the promotional

hierarchy was to the post of Assistant Security Commissioner in the scale of pay of Rs.8000-13500. It is submitted that though number of his colleagues were given the benefit, he was not given the benefit. The petitioner submits that in spite of making representation, it was not considered.

2. It is submitted by the learned Standing Counsel for the Railway that the petitioner was considered for promotion. However, he was found unfit. Subsequently, he was found fit and he was promoted on regular basis in the post Assistant Security Commissioner on 14.11.2002. The learned Standing Counsel submits that the petitioner's claim is stale and barred by limitation. Therefore, the petitioner is not entitled for 2nd financial up-gradation.

3. It is submitted by the petitioner that there was no adverse remarks against him. Accordingly, he was fully eligible for promotion on 17.3.2001. I am of the view that

these are essentially a matter factually to be decided by the appropriate authority. In view of the fact that these are factual issues to be adverted by the appropriate authority, it is appropriate, the issues be decided by the competent authority. The petitioner has already approached the second respondent by Ext.P15 representation. In view of Ext.P15 representation, appropriate decision shall be taken by the second respondent within a period of two months. It is also open for the second respondent to consider the issue whether the claim is stale or not.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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