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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI  
AND

THE HON'BLE MR.JUSTICE M. VENUGOPAL

W.A. No.9 of 2015

and

M.P.No.1 of 2015

1.The Chief Security Commissioner,  
Railway Protection Force,  
Integral Coach Factory,  
Chennai-38.

2.The Chief Security Commissioner,  
Railway Protection Force,  
South Western Railway,  
Gadag Road, Hubli-580 020.

.. Appellants /Respondents

Vs.

A.G.Perumal

.. Respondent/Petitioners

This Writ Appeal is preferred under Clause 15 of the Letters Patent against the order dated 21.02.2014 passed in W.P.No.10995 of 2011. Petition presented under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for the records connected with proceedings No.P/X/13/Court dated 11.1.2011 passed by the first respondent and quash the same and further direct the respondents to promote the petitioner to the post of Sub-Inspector with effect from December 2003 and fix the appropriate Pay Scale pertaining to it and disburse to the petitioner the entire arrears of salary and other benefits arising out of it within the time frame as fixed by this Honourable Court.

For Appellants : Ms.K.Mohana  
for Mr.M.Udayakumar

For Respondent : Mr.C.Rengarajan



## JUDGMENT

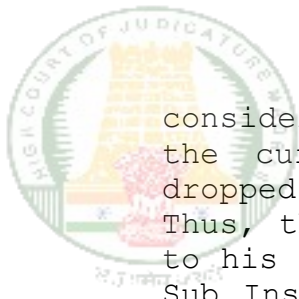
(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

This instant intra-court appeal arises from the order dated 21.2.2014 passed in W.P.No.10995 of 2011. The writ petitioner, who is the first respondent in this appeal, questioning the legality and validity of the order dated 11.1.2011, whereby the writ petitioner was denied benefit of promotion from the date when his juniors were promoted, preferred the writ petition, further seeking consequential direction to the appellants/the respondents therein, to promote the writ petitioner to the post of the Sub Inspector with effect from December, 2003 and fix appropriate pay scale and also grant of arrears of consequential salary.

2. Incontrovertible facts are that a charge memo on the allegation that the writ petitioner had demanded and collected a sum of Rs.500/- as bribe from the scrap merchants, was issued and disciplinary proceedings were initiated. On account of initiation of disciplinary proceedings, the writ petitioner was placed under suspension from 4.9.2001 to 29.5.2002. Subsequently, by order dated 9.9.2006, the disciplinary authority dropped the charge, holding not proved. The said period of suspension was subsequently treated as on duty. As a sequel, the writ petitioner was promoted to the post of the Inspector with effect from 11.2.2005 and he was informed accordingly by proceedings dated 7.3.2007.

3. Feeling aggrieved the writ petitioner made a representation, stating therein that the writ petitioner was entitled to promotion on the post of Sub Inspector along with his juniors, i.e., Seena Markala and Jayaram Naik, who were promoted by order dated 12.12.2003 as departmental proceedings, which was pending consideration on the date of their promotion, was subsequently dropped. A reminder was sent on 29.6.2010 and one more representation was made on 04.10.2010. On account of judicial intervention in W.P.No.24996 of 2010 moved by the writ petitioner, the authorities passed the impugned order on 11.1.2011, rejecting the representation stating that his juniors were promoted on adhoc basis to the rank of SIPF as they were free from DAR proceedings and on completion of DAR proceedings, the writ petitioner was granted promotion with effect from 11.2.2005 on proforma basis. The benefits were denied on the ground that his juniors have shouldered higher responsibilities and functioned as Sub Inspectors with effect from December, 2003 and the same cannot be granted to the writ petitioner. Being dissatisfied, the writ petitioner came up with the instant writ petition.

4. The learned Single Judge, examining the rival contentions, as also the disputes involved therein, held that the impediment for



considering the writ petitioner for promotion in the year 2003 was the currency of disciplinary proceedings, which was subsequently dropped and also the period of suspension was treated as on duty. Thus, the writ petitioner was entitled to the same benefit as granted to his juniors in 2003. If the services of juniors on the post of the Sub Inspector were regularized in 2005, the same benefit be extended to the petitioner. The petitioner is entitled to proforma promotion on adhoc basis with notional effect with effect from December, 2003. Thus, the respondents were directed to consider the case of the writ petitioner to promote him accordingly. It was also noted that since the writ petitioner had already retired, the case of the writ petitioner be considered within a period of three months from the date of receipt of copy of the order.

5. Ms.K.Mohana, the learned counsel appearing for the appellant/respondents therein vehemently contended that on the date when the juniors, namely, Seena Markala and Jayaram Naik were considered for promotion on adhoc basis, the writ petitioner was not eligible on the ground of currency of departmental proceedings. It is true that later on, the charge of allegation was dropped and the writ petitioner stood exonerated. However, since the writ petitioner has not worked on the post of the Sub Inspector even on adhoc basis, he is not entitled for promotion with effect from December, 2003 along with his juniors. The writ petitioner was rightly granted promotion on proforma basis with effect from 11.2.2005 when the services of his juniors were regularised on the post.

6. We have examined the submissions of the learned counsel, which is the same as was under consideration before the learned Single Judge. On perusal of documents and pleadings appended thereto, it is indisputable that departmental proceedings, which was in existence at the time of consideration of his juniors' promotion, was dropped subsequently and as such, at no point of time, any punishment was imposed. The departmental proceedings was initiated on the basis of allegations and that cannot be a ground for denial of promotion. It is well settled practice that while considering the cases of employees for promotion, all cases, including those employees against whom departmental proceedings are pending, be considered and the order / recommendation be kept in a sealed cover. On the basis of the consequential result, the order / recommendation be given effect to immediately, if the writ petitioner was eligible. As it is not controverted by the appellants, the writ petitioner was entitled to the benefit of adhoc promotion along with his juniors and all consequential relief flowing from his adhoc promotion with effect from December 2003.

7. We do not find any error, irregularity or irrationality in the order of the learned Writ Court sought to be impugned in the writ appeal. The order is flawless and deserves to be upheld. Resultantly,



the writ appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar

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//True Copy//

Sub Assistant Registrar

vvk

To

- 1.The Chief Security Commissioner,  
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- 2.The Chief Security Commissioner,  
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