

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2017

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.33616 of 2013

Chinta Nagaraju
No.814500497, CISF Unit,
RCPC, Raichur,
PIN : 584 170.

... Petitioner

Vs

The Group Commander,
CISF Group Head Quarters,
South Zone,
'D' Block, Rajaji Bhavan,
Besant Nagar, Chennai - 90.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondent to promote the petitioner and include his name in the panel list for promotion for Assistant Sub Inspector (ASI) post with consequential benefits and consequently promote the petitioner to the said post with all benefits at par with his juniors.

For Petitioner : Mr.T.K.S.Bharathy Anandraj
For Respondent : Mr.Venkatasamy Babu

सत्यमेव जयते
O R D E R

Writ petition has been filed seeking a writ of mandamus directing the respondent to promote the petitioner and include his name in the panel list for promotion to the post of Assistant Sub Inspector (ASI) with consequential benefits with all benefits on par with his juniors.

2. It is the case of the petitioner that he joined in the service in Central Industrial Security Force in the year 1981 and the petitioner is having unblemished record of service. While so, he had been arrested for offence under Section 379 of IPC in Crime No.127 of 2010. Pursuant to which, the petitioner had been suspended from service by the department on 16.03.2010 and was served with charge memo containing three charges. After enquiry, the Disciplinary Authority passed an order removing the petitioner from service on 29.08.2010. Petitioner challenged the said order before

the Appellate and Revisional Authorities and the petitioner was unsuccessful. Hence, earlier petitioner filed writ petition in W.P.No.10944 of 2011 and this court by order dated 15.10.2012 while setting aside the order of Appellate and Revisional Authority had remanded the matter to the Disciplinary Authority. It is also stated in the said order that the Disciplinary Authority is at liberty to award any other punishment for the first charge other than the major penalty of dismissal, removal or compulsory retirement from service. Pursuant to the order passed by this Court, the petitioner had been reinstated in service w.e.f. 03.01.2013 by modifying the earlier punishment into one reduction of pay by one increment of Rs.9,790/- to Rs.9420/- in the pay band-I of Rs.5,200- Rs.20,000/- + Grade Pay - Rs.2,800/- for a period of one year with further direction that during the period of reduction he will not earn increment and on expiry of punishment period, the reduction will have the effect of postponing his future increment of pay vide Group Commandant, GP Hqrs., Chennai, Office Order No.15014/GHC/AD.Vi/CNR/CPCL/Maj 2012/6225, dated 28.12.2012. According to the petitioner, the said punishment period commences from January 2012 and ended in January 2013 and therefore, the petitioner is eligible for promotion to the post of ASI on recruitment of regular basis. Though the panel had been prepared on 13.02.2013, the respondent has not considered the case of the petitioner for promotion. Hence, the present writ petition.

3. Learned counsel for the respondent took me through the additional counter affidavit filed by the respondent and would state that as per the Annual Contribution Report (ACR), the petitioner was awarded only with 49 marks and since he has not secured more than 50 marks as per paragraph 3 (Note: 2) of the Proceedings No.E-31014/ZOC-172016/Estt-I/467, dated 05.07.2016, the petitioner is not eligible for promotion.

4. In reply to the submissions made by the learned counsel for the respondent, learned counsel for the petitioner would submit that the petitioner belongs to Schedule Caste category therefore, those in the case of Schedule Caste and Schedule Tribes under the guidelines the candidates who secured 40 marks and above will also come under the purview. Hence, the petitioner is eligible for promotion. Hence, prays for allowing the writ petition.

5. A perusal of the guidelines particularly contents in paragraph 3 (Note: 2) of the Proceedings No.E-31014/ZOC-172016/Estt-I/467, dated 05.07.2016 wherein it has been clearly stated that the candidates who secured more than 40 marks as in the case of Schedule Caste and Schedule Tribes are eligible for promotion. Hence, the contention of the counsel for the respondent may not be correct. Further, a perusal

2012/6228, dated 28.12.2012 would reveal that the respondent has treated the petitioner's suspension period i.e., from 16.03.2010 to 23.07.2010 as 'NON DUTY' for all purposes and the intervening period from the date of removal from service and upto the date of reinstatement, subsequent to the order of this Court, as 'ON DUTY' for the purpose of service benefits and it is further stated in the said proceedings that no backwages will be paid to him for the said period. Though the above referred proceedings was prior to the promotion list, the case of the petitioner has not been considered for promotion. However, the same was subsequent to the orders of this Court.

6. In the light of the aforesaid facts, this Court is of the view that the petitioner's case can be considered for promotion. Hence, the petitioner is hereby directed to make a representation to the respondent within a period of two weeks from the date of receipt of a copy of this order raising all the grounds for promotion to include his name in the promotion panel for the year 2011. Thereafter, the respondent shall consider the case of the petitioner taking into account the grounds raised by the petitioner and pass final orders within a period of three months.

This writ petition is disposed off in the above terms. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

smi

To

The Group Commander,
CISF Group Head Quarters,
South Zone,
'D' Block, Rajaji Bhavan,
Besant Nagar, Chennai - 90.

+1cc to Mr.T.K.S. Bharathy Anandraj, Advocate, S.R.No.6547
+1cc to Mr.Venkatasamy Babu, Advocate, S.R.No.6343

SV(CO)
EU 24.2.17

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