

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17-07-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.271 of 2015

And

M.P.No.1 of 2015

V.Thirumaran

..

Petitioner

Versus

1.Assistant Commandant (Admn.),
Central Industrial Security Force Unit,
BIAL, Bengaluru.

2.Senior Commandant,
Central Industrial Security Force Unit,
BIAL, Bengaluru.

3.Deputy Inspector General,
South Zone,
Central Industrial Security Force Unit,
Airport Sector, Rajaji Bhavan,
Besant Nagar,
Chennai-600 090.

4.Director General,
Central Industrial Security Force Unit,
CGO Complex,
Lodhi Road,
New Delhi.

5.The Union of India,
Represented by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.

.. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the third respondent dated 17.10.2014 in his Order No.V-15019/L&R/AP-SZ/CC-44-BLR/2014/6684 and quash the same in so far as the portion relating to the date of promotion is concerned and to direct the respondents to implement the

order dated 10.8.2010 issued by the first respondent and to promote the petitioner as Head Constable with effect from 13.9.2010 and to pay all the benefits.

For Petitioner : Mr.P.R.Ponnambalam for
Mr.A.S.Mujibur Rahman

For Respondents : Mr.G.Karthikeyan,
Assistant Solicitor General of India.

O R D E R

The order of rejection issued by the third respondent/Deputy Inspector General of Central Industrial Security Force in proceedings dated 17.10.2014, declining retrospective promotion to the writ petitioner is under challenge in this writ petition.

2. The writ petitioner joined in the Central Industrial Security Force as Constable on 24.6.1989. The writ petitioner completed his probation and accordingly, he became eligible for promotion to the post of Head Constable. However, a criminal case was registered against him in respect of certain land disputes and the said criminal case is no way connected with the performance of his duties and responsibilities in the Central Industrial Security Force. However, the criminal case ended with an order of acquittal. Admittedly, there was no appeal against the order of acquittal and the acquittal became final. Thereafter, the respondents considered the case of the writ petitioner and grant promotion to the post of Head Constable with retrospective effect, more specifically, with effect from 17.10.2014.

3. The grievance of the writ petitioner is that he is entitled to be promoted with retrospective effect on par with his immediate juniors.

4. This Court is of an opinion that the actions initiated, at the first instance, deferring the promotion to the writ petitioner to the post of Head Constable during the year 2010 was correct in view of the fact that the criminal case was pending during the relevant point of time. Thus, the actions of the respondents in the year 2010 were in accord with the rules in force. However, the writ petitioner was acquitted from the criminal case, after passing an order of acquittal, the case of the writ petitioner was considered for promotion to the post of Head Constable. At the time of considering the case of the writ petitioner for promotion, based on the acquittal order, the competent authorities ought to have granted promotion with retrospective effect on par with his immediate juniors, who were promoted as Head Constables on 13.9.2010.

5. The rules as well as the judicial pronouncements, in this regard, are unambiguous that an employee, who was denied promotion on account of pendency of the criminal case or departmental proceedings on acquittal or exoneration from the department proceedings, promotions are to be given with retrospective effect on par with his immediate juniors along with all other consequential service benefits. This being the legal principles to be followed, the case of the writ petitioner is also to be considered for promotion with retrospective effect on par with his immediate juniors.

6. In this view of the matter, the order impugned passed by the third respondent in proceedings No.V-15019,L&R/AP-SZ/CC-44-BLR/2014/6684 dated 17.10.2014 is quashed and the respondents are directed to reconsider the case of the writ petitioner in the light of the rules and the legal principles settled in this regard and grant retrospective promotion in the post of Head Constable on par with his immediate juniors with all consequential service benefits, if there is no impediment for granting retrospective effect. The said exercise is to be done, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Svn

To

1.Assistant Commandant (Admn.),
Central Industrial Security Force Unit,
BIAL, Bengaluru.

2.Senior Commandant,
Central Industrial Security Force Unit,
BIAL, Bengaluru.

3.Deputy Inspector General,
South Zone,
Central Industrial Security Force Unit,
Airport Sector, Rajaji Bhavan,
Besant Nagar,
Chennai-600 090.

4. Director General,
Central Industrial Security Force Unit,
CGO Complex,
Lodhi Road, New Delhi.

5. The Secretary to Government,
Union of India,
Ministry of Home Affairs,
New Delhi.

+1cc to Mr.G.Karthikeyan, Advocate, S.R.No.47691

WP 271 of 2015

VGII(CO)
GSP(31/07/2018)



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