

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.28076 of 2019
&
W.M.P.No.27699 of 2019

M.C.Janardhanan

..Petitioner

VS

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

2.The Director General,
Central Industrial Security Force,
CGO Complex, Lodhi Road,
New Delhi – 110 003.

3.The Inspector General,
Central Industrial Security Force,
South Sector, Head Quarters,
Chennai – 600009.

4.The Deputy Inspector General (Personnel),
Central Industrial Security Force,
CGO Complex, Lodhi Road,
New Delhi – 110 003.

5.The Deputy Inspector General,
Central Industrial Security Force,
Regional Training Centre,
Suraksha Campus, Arakkonam,
Vellore District – 631 152.

6.The Deputy Commandant (Admn),
Central Industrial Security Force,
Regional Training Centre,
Suraksha Campus, Arakkonam,
Vellore District – 631 152.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 6th respondent in his order No.E-24018/I/RTC (A)/DOC/SD/2019/3746 dated 31.05.2019 and quash the same and to direct the respondents to pay Notional Increments for 2019 and to grant Notional Promotion as Assistant commandant/JAO and revise the pension and pay the arrears.

For Petitioner : Mr.M.Md.Ibrahim Ali

For Respondents : Mr.K.S.Jayaganeshan
Standing Counsel

ORDER

The prayer sought for in this Writ Petition is to call for the records relating to the order passed by the 6th respondent in his order No.E-24018/I/RTC(A)/DOC/SD/2019/3746 dated 31.05.2019 and quash the same and to direct the respondents to pay Notional Increments for 2019 and to grant Notional Promotion as Assistant commandant/JAO and revise the pension and pay the arrears.

2. By consent of both the parties, the Writ Petition is taken up for final disposal.

3. The case of the petitioner is that he had submitted the representations to the 2nd respondent for the grant of notional increment and notional promotion on 30.03.2019 and 24.06.2019 respectively. However, the impugned order has been passed rejecting the representations of the petitioner without assigning any proper reason. It is his further case that in a similar case in W.P.15732 of 2017, the Division Bench of this Court by order dated 15.09.2017 has granted one notional increment. Hence, the petitioner is entitled to

the benefit of order of this Hon'ble Court dated 15.09.2017 which has been confirmed by the Hon'ble Supreme Court by dismissing the SLP and Review Petition filed by the Union of India.

4. Mr.M.Md.Ibrahim Ali, learned counsel for the petitioner would submit that the petitioner has retired on 30.06.2019 and the notional increment to the petitioner for every year has been granted on 1st of July. Accordingly, the petitioner is entitled to the notional increment for the year 2019 only on 01.07.2019. He would also submit that in a very same issue in W.P.No.15732 of 2017, the Division Bench of this Court has allowed the petition and granted relief to the petitioner and the same was confirmed by the Hon'ble Supreme Court in S.L.P.No.(Civil).22008 of 2018 vide order dated 23.07.2018. Therefore, he implore this Court to issue direction to the respondents to pay the notional increment to the petitioner. He would also urge this Court to issue direction to the respondents to consider the representation for the Notional Promotion.

5. Mr.K.S.Jayaganeshan, learned Standing counsel appearing for the respondents did not dispute the facts of the case submitted by the learned counsel for the petitioner.

6. Heard the counsels and perused the papers.

7. In the instant case, the petitioner has retired on 30.06.2019 and is entitled for one notional increment on or before 01.07.2019, however, the petitioner's claim was rejected. In the very same issue, the Hon'ble Apex Court while dismissing R.P.(C).No.1731/2019 in S.L.P.(C).No.22008 of 2018, has held as follows:

"Increment Issue: for those retired on 30th June, due increment is 1st July. Supreme Court of India dismissed Review Petition No.1731/2019 Judgement dated 8th August 2019 filed by the Government, indicated based on the merit, review petition submitted by Government was dismissed. Now, the national forums responsibility is to insist the government to implement the same to all the central government servants who are similarly placed instead of everybody approaching the Court of law for Justice and it is shear waste of money and time."

8. In view of the above, the respondents are directed to pay the amounts within a period of eight weeks from the date of receipt of a copy of this order. As regards notional promotion, the respondents are directed to consider the representation dated 24.06.2019 and pass appropriate orders on merits, within a period of twelve weeks from the date of receipt of a copy of this order.

9. The Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is also closed.

23.09.2019

Index:Yes / No
Internet: Yes / No
Speaking / Non-Speaking order
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Order dated 08.11.2019

W.P.No.28076 of 2019 &

W.M.P.No.27699 of 2019

M.DHANDAPANI,J.

This matter came up today i.e., on 08.11.2019 under the caption 'for clarification' at the instance of the learned counsel for the petitioner and the same is clarified. Therefore, the Registry is directed to issue the following order:

"1(a) The prayer sought for in this Writ Petition is to call for the records relating to the order passed by the 6th respondent in his order

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No.E-24018/I/RTC(A)/DOC/SD/2019/3746 dated 31.05.2019 and quash the same and to direct the respondents to pay Notional Increments for 2019 and to grant Notional Promotion as Assistant commandant/JAO and revise the pension and pay the arrears.

2. By consent of both the parties, the Writ Petition is taken up for final disposal.

3. The case of the petitioner is that he had submitted the representations to the 2nd respondent for the grant of notional increment and notional promotion on 30.03.2019 and 24.06.2019 respectively. However, the impugned order has been passed rejecting the representations of the petitioner without assigning any proper reason. It is his further case that in a similar case in W.P.15732 of 2017, the Division Bench of this Court by order dated 15.09.2017 has granted one notional increment. Hence, the petitioner is entitled to the benefit of order of this Hon'ble Court dated 15.09.2017 which has been confirmed by the Hon'ble Supreme Court by dismissing the SLP and Review Petition filed by the Union of India.

4. Mr.M.Md.Ibrahim Ali, learned counsel for the petitioner would

submit that the petitioner has retired on 30.06.2019 and the notional increment to the petitioner for every year has been granted on 1st of July. Accordingly, the petitioner is entitled to the notional increment for the year 2019 only on 01.07.2019. He would also submit that in a very same issue in W.P.No.15732 of 2017, the Division Bench of this Court has allowed the petition and granted relief to the petitioner and the same was confirmed by the Hon'ble Supreme Court in S.L.P.No.(Civil).22008 of 2018 vide order dated 23.07.2018. Therefore, he implore this Court to issue direction to the respondents to pay the notional increment to the petitioner. He would also urge this Court to issue direction to the respondents to consider the representation for the Notional Promotion.

5. Mr.K.S.Jayaganeshan, learned Standing counsel appearing for the respondents did not dispute the facts of the case submitted by the learned counsel for the petitioner.

6. Heard the counsels and perused the papers.

7. In the instant case, the petitioner has retired on 30.06.2019 and is entitled for one notional increment on or before 01.07.2019,

however, the petitioner's claim was rejected.

8.Learned counsel appearing for the petitioner submitted that the Government of India has filed review petition against the Division Bench judgment of the Hon'ble Apex Court in R.P.(C).No.1731/2019 in S.L.P.(C).No.22008 of 2018 and the Hon'ble Apex Court has also dismissed the same.

9. In view of the above, the respondents are directed to pay the amounts within a period of eight weeks from the date of receipt of a copy of this order. As regards notional promotion, the respondents are directed to consider the representation dated 24.06.2019 and pass appropriate orders on merits, within a period of twelve weeks from the date of receipt of a copy of this order.

10. The Writ Petition is clarified with the above directions. No costs. Consequently, connected Miscellaneous Petition is also closed."

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08.11.2019

Note:Registry is directed to issue order copy.

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To

- 1.The Union of India,
Represented by Secretary to Government,
Ministry of Home Affairs,
New Delhi.
- 2.The Director General,
Central Industrial Security Force,
CGO Complex, Lodhi Road,
New Delhi – 110 003.
- 3.The Inspector General,
Central Industrial Security Force,
South Sector, Head Quarters,
Chennai – 600009.
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Central Industrial Security Force,
Regional Training Centre,
Suraksha Campus, Arakkonam,
Vellore District – 631 152.
- 6.The Deputy Commandant (Admn),
Central Industrial Security Force,
Regional Training Centre,
Suraksha Campus, Arakkonam,
Vellore District – 631 152.

M.DHANDAPANI, J.,

kan/kj



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08.11.2019

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