



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.13191 of 2011

R.Vaithianathasamy

... Petitioner

Vs.

1.Union of India,
Rep.by the Chief Security Commissioner,
Railway Protection Force,
6th Floor, MMC, Chennai - 3.

2.The Divisional Security Commissioner,
Railway Protection Force,
Trichirappalli Division,
Southern Railway,
Trichirappalli.

3.Senior Divisional Financial Manager,
Trichirappalli Division,
Southern Railway,
Trichirappalli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, (i) to call for the original records pertaining to the impugned order No.SXT/P.608/MACP/Vol.I dated 08.08.2011 passed by the 2nd respondent and quash the same; (ii) to grant financial upgradation to the pay scale of Sub Inspector / RPF i.e. Rs.5500-175-9000 with effect from 01.10.1999; (iii) to grant the arrears of salary, arrears of settlement payments consequent upon the re-fixation of pay with effect from 01.10.1999; (iv) to revise the retirement pension on the basis of re-fixation of pay and to pay the arrears of pension etc., from 01.09.2008.

For Petitioner : Ms.T.Banumathy
For R1 to R3 : Mr.A.Uthaman

O R D E R

The relief sought for in the present Writ Petition is to quash the order dated 08.08.2011, passed by the 2nd respondent and to grant financial upgradation, arrears of salary, arrears of settlement payments and retirement benefits as well as the arrears of pension.



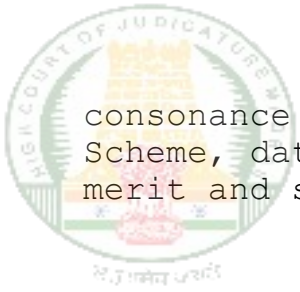
2. The impugned order dated 08.08.2011 states that the petitioner is not entitled for ACP as he was granted two promotions and therefore, he is not eligible.

3. In this regard, the learned counsel appearing on behalf of the respondents submitted the copy of the Office Memorandum, dated 9th August, 1999 issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions. As per the Assured Career Progression Scheme for the Central Government Civilian Employees, the conditions for grant of benefit under the ACP Scheme is provided. Para 5.1 of the Scheme reads as under:-

"5.1. Two financial upgradations under the ACP Scheme in the entire Government service career of an employee shall be counted against regular promotions (including in-situ promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him;"

4. As per the above conditions, the scheme shall be available only if no regular promotion during the prescribed period have been availed by the employee. If an employee has already got one regular promotion, he shall qualify for 2nd financial upgradation only on completion of 24 years of regular service. **In case of two prior promotions on regular basis have already been received by an employee no benefit under ACP scheme shall accrued to him.** Thus, it is made very clear that the employee, who have availed two regular promotions are not entitled to avail the benefit under the ACP scheme.

5. When the terms and conditions of the ACP Scheme is unambiguous with reference to the eligibility of the employees to avail the benefit, the claim of the writ petitioner is not entertainable, as he was regularly promoted on two occasions. When two promotions were already given, the benefit cannot be granted and accordingly, the reasons stated in the impugned order is in



consonance with the terms and conditions stipulated under the Scheme, dated 9th August, 1999. Thus, the Writ Petition is devoid of merit and stands dismissed. No costs.

Sd/-

Assistant Registrar (RTI)

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Sub Assistant Registrar(CS)

MPK

To

- 1.The Chief Security Commissioner,
Union of India,
Railway Protection Force,
6th Floor, MMC, Chennai - 3.
- 2.The Divisional Security Commissioner,
Railway Protection Force,
Trichirappalli Division,
Southern Railway,
Trichirappalli.
- 3.Senior Divisional Financial Manager,
Trichirappalli Division,
Southern Railway,
Trichirappalli.

+1 CC to M/s.A.UTHAMAN, Advocate (SR-25838[F] dated 17/12/2020)

W.P. (MD)No.13191 of 2011

16.12.2020

MJ (CO)

NR (28/12/2020) 3P : 5C