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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

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THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.21437 OF 2010

AND

M.P.NO.1 OF 2010

M.Vadivelu

... Petitioner

.Vs.

1. The Director General,
Central Reserve Police Force,
CGO Complex, Lodhi Road,
New Delhi.
2. The Inspector General (Trg.)
Central Reserve Police Force,
CGO Complex, Lodhi Road,
New Delhi.
3. The Deputy Inspector General (Estt.),
Central Reserve Police Force,
CGO Complex, Lodhi Road,
New Delhi.
4. The Principal,
RTC - II, Central Reserve Police Force,
Avadi, Chennai - 600 065.
5. The Commandant,
RTC - II, Central Reserve Police Force,
Avadi, Chennai - 600 065.

... Respondents

PRAYER:-

The Writ Petition has been 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 third respondent dated 16.06.2010 in his Office Letter No.P.VII-12/2010-ESTT and quash the same and to direct the respondents to promote the petitioner with effect from October, 2007 and to pay the salary and all monetary benefits and the benefits under the ACP Scheme.



For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Dr.D.Simon
Central Govt. Standing Counsel

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O R D E R

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the third respondent dated 16.06.2010 in his Office Letter No.P.VII-12/2010-ESTT and quash the same and to direct the respondents to promote the petitioner with effect from October, 2007 and to pay the salary and all monetary benefits and the benefits under the ACP Scheme.

2. The Writ Petitioner was appointed as a Constable. He was issued with a charge memo for over staying of 65 days beyond leave granted by the respondents. On completion of the disciplinary proceedings, the petitioner was imposed with the punishment of reduction of pay for three years by order dated 31.10.2006. On appeal, the appellate authority, by its order dated 15.05.2008, modified the punishment into one of reduction of pay for a period of one year. The currency of punishment got over on 31.10.2007. As there was a selection for promotion to the post of Sub-Inspector and the currency of punishment was over by 31.10.2007, the petitioner had made a representation for consideration of his name for promotion. However, it was rejected by the authority on the ground that he should have five years of punishment free record. Challenging that order, the petitioner is before this Court.

3. Heard the learned counsel appearing on either side.

4. There is no dispute as to the punishment awarded to the petitioner on 31.10.2006 and it was modified by the order of the appellate authority on 15.05.2008 as reduction of pay for a period of one year. It is also not disputed that the punishment took effect from 31.10.2006 and was over by 31.10.2007.

5. The crucial issue to be considered is whether the petitioner fulfills the eligibility criteria as specified in the Standing Order of the respondents. It is imperative to note that Clause II of the Standing Order No.6/99, dated 19.03.1999, specifies the eligibility criteria for promotion from Head Constable to Sub Inspector, which is extracted as follows:-

"II. HEAD CONSTABLE TO SUB INSPECTOR

a) Must have completed minimum five year service in the rank, subject to a total service of 18 years.



b) Must have qualified in W & T Course. However, HCs who have qualified in Senior Cadre Course, are not required to undergo W & T Course.

c) Must have qualified in Senior Under Officers Cadre Course (SUOCC).

d) Must not have adverse report in the ACR in the preceding five years.

e) Must not have had major punishment in preceding five years."

As per the above criteria specified, the Head Constable shall not have adverse report in the ACR in the preceding five years and shall not have major punishment in the preceding five years. Though the major punishment was modified into minor punishment, however, the adverse entry with regard to the punishment imposed on him on 31.10.2006 will remain. Only after expiry of five years period, the adverse entry in the ACR will lapse and he can be considered for promotion. Therefore, the claim of the petitioner that he should be considered for promotion to the post of Sub Inspector as he completed currency of punishment is not sustainable. As per the Standing Order No.6/99, he should have unblemished service record in the preceding five years. Admittedly, he was visited with the punishment on 31.10.2006 and his case cannot be considered for promotion.

I do not find any merit in this case and accordingly, the Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Director General,
Central Reserve Police Force,
CGO Complex, Lodhi Road,
New Delhi.



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4. The Principal,
RTC - II, Central Reserve Police Force,
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5. The Commandant,
RTC - II, Central Reserve Police Force,
Avadi, Chennai - 600 065.

+1cc to Dr.D.Simon, Advocate, S.R.No.35866

+1cc to Mr.A.S.Mujibur Rahman, Advocate, S.R.No.36365

W.P.No.21437 of 2010
and M.P.No.1 of 2010

SSI (CO)
PBS/26/08/2021