

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19888 of 2014

and

M.P.No.1 of 2014

R.Velayutham

...Petitioner

Vs

1. The Director General
Central Industrial Security Force
(Ministry of Home Affairs)
Block No.13, CGO Complex,
Lodhi Road,
New Delhi - 110 003.
2. The Deputy Inspector General,
Central Industrial Security Force,
Neyveli Lignite Corporation, Neyveli.
3. The Assistant Commandant/ADM,
CISF Unit,
Neyveli Lignite Corporation, Neyveli.
4. M.Mohan,
Inspector Fire, CISF,
Neyveli Lignite Corporation, Neyveli.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, to declare the absorption of the 4th respondent as Head Constable Driver in Fire Service Branch with retrospective effect and consequent revision of Seniority list in the category of Head Constable/Driver (Fire) and further promotion as Assistant Sub Inspector (Fire) Sub-Inspector (Fire) notionally and Inspector (Fire) as null and void and violation of provisions of CISF Rules and direct the respondents 1 and 2 to promote the petitioner as Inspector (Fire) on par with his immediate junior and place him in appropriate place in the seniority list.

For Petitioner : Mr.A.S.Mujibur Rahman
For Respondents : No Appearance

ORDER

The Writ on hand has been instituted to declare the absorption of the fourth respondent as Head Constable Driver with retrospective effect and consequent revision of seniority list in the category of Head Constable/Driver (Fire) and further promotion as Assistant Sub Inspector (Fire), Sub-Inspector (Fire) notionally and Inspector (Fire), as null and void and violation of provisions of CISF Rules and direct the respondents 1 and 2 to promote the petitioner as Inspector (Fire) on par with his immediate junior.

2. The petitioner joined as a Constable (Fire) in the Central Industrial Security Force on 01.04.1982. He had completed basic Fireman course from 08.02.1988 to 17.05.1988 at Fire Service Training Institute, Deoli, Rajasthan. The petitioner was selected and appointed on 14.07.1991 as Head Constable Driver cum Pump Operator (Fire) directly. The petitioner had completed H.C. DVR/OPTR (Fire) Course conducted at Fire Service Training Institute, Deoli, Rajasthan for the period from 07.10.1991 to 04.04.1992 in 1st Batch with meritorious award of honours. Thereafter, the petitioner was promoted as Assistant Sub-Inspector (Fire) on 29.01.1997 and he was further promoted to the post of Sub-Inspector (Fire) on 20.06.2009.

3. The learned counsel for the petitioner made a submission that the fourth respondent, who was junior to the petitioner even in the initial cadre, is now working as Inspector (Fire) and therefore, the petitioner is also entitled to be promoted retrospectively with effect from the date on which the fourth respondent was promoted as Head Constable Driver and with reference to his further promotions to the post of Assistant Sub-Inspector, Sub-Inspector and Inspector. The learned counsel also drew attention of this Court with reference to the promotions to the petitioner as well as the promotions granted in favour of the fourth respondent.

4. The respondents have stated that the petitioner was initially appointed on 01.04.1982 as Security Guard in CISF. However, the fourth respondent namely M.Mohan, was initially appointed as Security Guard in CISF on 01.03.1982. Thus, even in the initial category, the fourth respondent was appointed before the petitioner and the very basis set out in the writ petition stating that the petitioner is senior to the fourth respondent, is incorrect.

5. The respondents have further stated that the fourth respondent was directly appointed to the rank of Head Constable/Driver on 21.12.1987. Later on, he was absorbed as HC/DCPO with effect from 14.10.1991 and accordingly allotted PSL No.9-C, taking into consideration his direct appointment of Head Constable/Driver, i.e. from 21.12.1987 under the existing Rules. The petitioner namely R.Velayutham, was initially appointed as Security Guard on 01.04.1982 and further, he was promoted to the post of HC/DCPO with effect from 14.07.1991 and allotted PSL No.75, taking into consideration his direct appointment as HC/DCPO with effect from 14.07.1991. Even in the category of Assistant Sub-Inspector, the petitioner was promoted on 29.01.1997, whereas the fourth respondent was promoted was promoted on 19.06.1995. Thus, right from the initial category, the fourth respondent was senior to the petitioner. When the fourth respondent was promoted as Head Constable on 21.12.1987, the petitioner has not raised any objection. He was further promoted to the post of Assistant Sub-Inspector in the year 1991 and even at that point of time, no objection was raised by the petitioner. Only when the fourth respondent was promoted as Inspector (Fire), the petitioner raised an objection.

6. This Court is of the considered opinion that any issue relating to seniority is to be agitated by the aggrieved person within a reasonable time. The employee who has slept over his rights, if any in consonance with the Rules, cannot approach the Court after a lapse of several years. Settled seniority for many years during which several promotions were granted to the employees, cannot be unsettled which would cause greater impact in matters of seniority amongst all other employees working in the establishment. That exactly is the reason why the Courts do not interfere with the settled seniority after a lapse of several years.

7. In the present case, the fourth respondent was appointed even prior to the petitioner, as Security Guard and he was directly promoted as Head Constable/Driver in the year 1987 and thereafter, promoted to the post of Assistant Sub-Inspector in the year 1991. However, the petitioner was appointed as Security Guard after the appointment of the fourth respondent and he was also directly recruited as Head Constable/Driver in the year 1991. Thus, the seniority of the petitioner and the fourth respondent was fixed with reference to their direct appointments as Head Constable/Driver. In the post of Head Constable/Driver, the fourth respondent is senior to the petitioner and thus, the claim set out by the petitioner is untenable and not in consonance with the Rules in force.

8. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Director General
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(Ministry of Home Affairs)
Block No.13, CGO Complex,
Lodhi Road, New Delhi - 110 003.
2. The Deputy Inspector General,
Central Industrial Security Force,
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3. The Assistant Commandant/ADM,
CISF Unit,
Neyveli Lignite Corporation, Neyveli.

+1cc to Mr.A.S.Mujibur Rahman, Advocate, S.R.No.42462

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NSK/22/07/2022