



05.11.2013 and quash the same and direct the respondents to promote the petitioner as Assistant Security Commissioner on par with his juniors in pursuance to the orders passed by the 2nd respondent in No.2013/SEC/E/P/PM2/1 dated 12.08.2013 without reference to the charge sheet pending against the petitioner No.VXP/227/153/04/2013 dated 10.09.2013, pending criminal case registered in Crime No.627 of 2013 dated 16.09.2013 on the file of the Kottar Police Station, Kanyakumar District and the charge sheet issued to the petitioner in No.VXP/227/153/02/14 dated 06.01.2014 and grant him all consequential service and monetary benefits on par with the petitioner's juniors .

For Appellants : Mr.P.T.Ramkumar

For Respondent : Mr.R.Rhinesh Kumar

J U D G M E N T

S.VAIDYANATHAN., J
and
N.MALA., J

The Present Writ Appeal has been preferred against the order of the learned Single Judge dated 29.06.2018, made in W.P.No.41152 of 2016, by which a direction was issued to the Appellants to post the Writ Petitioner in the promotional post as Assistant Security Commissioner, without taking into account his subsequent involvement in the criminal case and the departmental proceedings.

2. It is represented that subsequent to the issuance of promotional order, consequent to his involvement in the criminal case and initiation of departmental proceedings, the order of promotion has been cancelled. However, after completion of departmental proceedings, he has been subsequently removed / dismissed from service.

3. It is seen that the Respondent herein, on an earlier occasion, had filed W.P.No. 34682 of 2018, challenging the provisions of Rule 153 (2)(1) of Railway Protection Rules, 1987 and when the said Writ Petition was taken up for hearing on 11.03.2022, the learned counsel appearing for the Writ Petitioner/Respondent herein sought permission of this Court to withdraw the said Writ Petition, stating that the Respondent



herein has already been removed from service on 24.09.2020, in respect of another disciplinary proceedings and he also sought liberty of this Court to file a fresh Writ Petition, so as to challenge the Rule, after final attainment of disciplinary proceedings. Based on the said submission, the Writ Petition was dismissed as withdrawn, with liberty as prayed for.

4. In view of the subsequent development, we are inclined to set aside the order of the learned Single Judge dated 29.06.2018 made in W.P.No.41152 of 2016. Accordingly, this Writ Appeal is allowed and the order dated 29.06.2018 is hereby set aside. However, it is made clear that in case the order of punishment, namely, dismissal from service, is set aside or interfered with by this Court, it is open to the Respondent herein to approach this Court as liberty is given. No costs. Consequently, connected Miscellaneous Petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

arr

To

1. The Secretary to Government,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The Director General
Railway Protection Force,
Rail Bhavan, New Delhi.
3. The Chief Security Commissioner,
Railway Protection Force,
Southern Railway,
Moore Market Complex,
Chennai-3.



4. The Divisional Security Commissioner,
Railway Protection Force,
Thiruvananthapuram.

WEB COPY

+1cc to M/s.P.T.Ramkumar, Advocate Sr.20810

W.A.No. 2479 of 2018

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srg 04/05/2022