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W.P.No.10562 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06..06..2023

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.10562 of 2014
& M.P.No.2 of 2014

C.K.Prem,
Constable,
CISF No.921403676
CISF Unit, CPCL, Manali,
Chennai 600 068.

..... Petitioner

-Versus-

1.Union of India,
Rep. by the Secretary ((DOP & Training),
Ministry of Home Affairs,
New Delhi.

2.The Director General,
Central Industrial Security Force,
Block No.13, CGO's Complex,
Lodhi Road, New Delhi 110003.

3.The Inspector General,
Central Industrial Security Force,
Southern Sector, Head Quarters,
Chennai Port Trust Campus,
Chennai – 600009.

4.The Deputy Inspector General,
Central Industrial Security Force,
South Zone, D-Block,
Rajaji Bhavan, Besant Nagar,
Chennai 600090.



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5.The Deputy Inspector General,
Central Industrial Security Force,
Neyveli Lignite Corporation,
Neyveli, Cuddalore District.

6.The Deputy Commandant,
Central Industrial Security Force Unit,
CISF Unit,
CPCL, Manali,
Chennai 600068.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent dated 16.12.2013 in his Order No.E-27099/36-26/2006/Entitlement/H-243 and the consequential order passed by the 6th respondent in his Office Memorandum No.V-24099/Dastak/CISF/CPCL/2014-574 and to quash the same and to direct the respondent to grant financial upgradation under the Assured Career Progression Scheme with effect from the petitioner's eligibility w.e.f. 01.01.2004 treating the option exercised under FR-22(1)(a)(1) and revise the salary and grant all consequential benefits.

For Petitioner : *Mr.A.S.Mujibur Rahman*

For Respondents : *Mr.B.Rabu Manohar*
for R1

No Appearance for RR2 to 6



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ORDER

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This writ petition challenges the order passed by the 2nd respondent refusing to grant financial upgradation under the Assured Career Progression Scheme w.e.f. 01.01.2004 and the consequential order passed by the 2nd respondent.

2. The petitioner was working as a Constable with the Central Industrial Security Force (CISF). He joined service on 03.07.1992. According to him, on the completion of 12 years of service, he is entitled to Assured Career Progression Scheme. On 01.05.2006, the said scheme was granted without any option. The petitioner states that he made a representation on 20.03.2006 stating that ACP may be fixed and he was not given an opportunity for exercising his option.

3. The 3rd respondent, viz., the Inspector General, CISF, Chennai, sent a letter to the 4th respondent with respect to fixation of pay without obtaining option from the petitioner. Thereafter, the petitioner made a representation on 18.10.2012 seeking for re-fixation of his pay under ACP Scheme.

4. On 21.04.2012, the Deputy Inspector General, Neyveli Lignite Corporation Limited, Neyveli, forwarded the proposal. On 16.12.2013, the 2nd respondent informed that the proposal is not feasible and on the basis of the 2nd



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respondent's order, the Deputy Commandant CPCL, Manali, Chennai, rejected the request of the petitioner. Hence, the writ petition has been filed challenging the order of the 2nd respondent and the consequential order passed by the 6th respondent.

5. Heard both sides.

6. The learned counsel for the petitioner would urge that he had gone on training during the relevant time and therefore, he was not in a position to submit his application exercising the option for fixation of his pay.

7. It is pertinent to point out that first of the representation that has been given is after the cut off date that was fixed by the respondents. A perusal of the counter affidavit as well as the typed set of papers would show that option was exercised by the petitioner to the Deputy Inspector of General, CISF, only on 18.10.2012 and the proceedings dated 20.12.2013 would show that re-fixation of pay under ACP Scheme was done on 20.12.2013. This writ petition does not challenge the said order.

8. Apart from that, the petitioner has not exercised option for fixation of pay and grant of financial upgradation in time. The respondents will also assert that the petitioner was very much available in the unit during the relevant time and yet for the reasons best known to him, he did not exercise option for



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fixation of pay. The respondents cannot *suo motu* refix the pay of the petitioner, when the option given to him, was not exercised by the latter on time.

Therefore, having missed the bus, the petitioner cannot blame the respondents for the same. I do not find any merit in the writ petition and the same deserves to be dismissed.

In the result, the writ petition is dismissed. No costs.

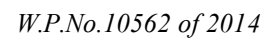
Consequently, connected MP is closed.

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Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

To

- 1.The Secretary ((DOP & Training),
Union of India, Ministry of Home Affairs, New Delhi.
- 2.The Director General, Central Industrial Security Force,
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V.LAKSHMINARAYANAN, J.

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