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W.P. No.10096 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2024

CORAM:

THE HON'BLE MRS. JUSTICE N. MALA

W.P. No.10096 of 2016 & W.M.P. Nos.9002 and 9003 of 2016

N. Shanmugam

Petitioner

v

- 1 The Director General
Directorate General
CRPF, CGO Complex
Lodhi Road
New Delhi 110 003
- 2 The Inspector General of Police
Southern Sector CRPF
Road No.10 C, Jubilee Hills
Near MLA/MPs Colony
Gayathri Hills
Hyderabad 500 033
- 3 The Deputy Inspector General of Police
Central Reserve Police Force
Group Centre
Avadi
Chennai 600 065
- 4 The Commandant
91 Battalion
CRPF
GC Campus
Bijanaur
Lucknow (UP)

Respondents

Writ Petition filed under Article 226 of the Constitution of India
seeking a writ of certiorarified mandamus calling for the records pertaining to



W.P. No.10096 of 2012

no.P.VII.4/2012.EC.I

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For petitioner

Mrs. R. Meenakshi

For RR 1, 2 and 4

No appearance

For R3

Mr. A. Kumaraguru

Central Government Standing

Counsel

ORDER

In this writ petition, the petitioner seeks to challenge the office order dated 20.10.2012 passed by the third respondent, besides seeking a direction to the respondents to protect his original seniority, viz., Seniority No.7111.

2. The facts in brief leading to the filing of this writ petition could succinctly be stated thus:

2.1 The petitioner joined the Central Reserve Police Force (“CRPF” for short) as Constable in the year 1987 and he was posted in various Battalions deployed pan India. After serving for two and a half decades away from his home town, he was transferred from 98 Battalion, CRPF, and posted at Group Centre, CRPF, Avadi, where he joined on 25.03.2012.

2.2 While he was working there, he was promoted as Assistant Sub Inspector (GD) and posted to 215 Battalion *vide* proceedings dated 02.07.2012, which was conveyed to him on 06.08.2012. He addressed a representation dated 12.09.2012 to the Deputy Inspector General, CRPF, the



26.04.2013, he may be permitted to continue at Avadi for a period of one year.

2.3 According to the petitioner, *vide* the aforesaid representation, he had not opted to forgo his promotion, but had only made a request for deferment of his transfer. But, his representation was misinterpreted by the Company Commandant, the fourth respondent, who had forwarded the same to his superior officer, *viz.*, the third respondent, stating that the petitioner had opted to forgo his promotion. The third respondent, on scrutiny of his representation forwarded by the Company Commandant, *vide* office order dated 20.10.2012, accepted the petitioner's option to forgo his promotion as Assistant Sub Inspector (GD). In the said letter, it was further clarified that the petitioner would not be considered for promotion for a period of one year from the date of refusal of promotion and that on his eventual promotion to higher grade, he would lose his seniority *vis-a-vis* his juniors promoted to the higher grade earlier, irrespective of the fact whether the post in question was filled by selection or otherwise.

2.4 On receipt of the said office order, the petitioner addressed a representation dated 07.12.2012 stating that he had only requested for deferment of transfer on promotion due to domestic constraints and did not opt for forgoing his promotion. In response, the second respondent, *vide*



for review of such cases before completion of one year and that his case could be reviewed only after the completion of one year period *i.e.*, 12.09.2013.

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2.5 Eventually, the petitioner was transferred on promotion and posted to 91 Battalion, CRPF and was assigned Seniority No. 2714 in place of his Seniority No. 2111. The petitioner, *ergo*, addressed a representation dated 01.04.2014 to the Commandant, 91 Battalion, CRPF, requesting to protect his earlier seniority. However, *vide* communication dated 04.03.2015, the petitioner was informed that his seniority, as claimed by him, could not be considered. The petitioner, therefore, sought a personal audience of the Inspector General, Southern Sector, CRPF, the second respondent, through Skype on 02.07.2015, who rejected the petitioner's request for retention of seniority.

2.6 Hence, as stated in the opening paragraph, the petitioner has moved this writ petition challenging the office order dated 20.10.2012 of the third respondent, in and by which, his option to forgo his promotion was accepted, besides seeking a direction to protect his original seniority.

3. The respondents filed a detailed counter affidavit stating that the petitioner, *vide* his letter dated 12.09.2012, had opted to forgo his promotion on account of his daughter's wedding and the same was accepted. He



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subsequently addressed representations stating that he had not opted to forgo promotion, but only sought deferment of his transfer. The same was not considered by the respondents as the provisions contained in Paragraph 17.12 of Chapter 54 of Swamy's Complete Manual on Establishment and Administration clearly provided that on refusal of promotion, the officer would not be offered promotion for a period of one year and even thereafter, in the event of his promotion, he would forgo his seniority. The respondents further stated in their counter affidavit that the petitioner was informed *via* message dated 03.01.2013 that there was no provision for review of such cases before completion of one year and that the petitioner's case could be reviewed only after the completion of one year period *i.e.*, 12.09.2013. It is the further stand of the respondents that there is absolutely no infirmity in the impugned order as the same was passed only based on the petitioner's own request.

4. The learned counsel for the petitioner submitted that the petitioner had sought only deferment of his transfer and he did not forgo his promotion and the Company Commandant had misinterpreted the petitioner's letter dated 12.09.2012 while forwarding the same to his higher authority and therefore, the order impugned is unsustainable and as a sequel, the petitioner is entitled to the relief sought by him.



the third respondent, *per contra*, referring to the letter dated 12.09.2012 of the petitioner, submitted that by the said letter, the petitioner had only opted to forgo his promotion and therefore, based on his request only, the impugned order came to be passed.

6. Heard the learned counsel for the petitioner and the learned Central Government Standing Counsel appearing for the third respondent and also perused the materials available on record.

7. From a bare reading of the petitioner's letter dated 12.09.2012, it is manifest that the petitioner has not accepted promotion, which is evident from the fact that the “subject” portion of the said letter reads as “*Non acceptance of promotion of ASI rank – Regarding.*” Therefore, it is as clear as day that the petitioner himself had expressed his unwillingness to accept promotion and to forgo the same and that he did not seek deferment of transfer, as contended by the learned counsel for the petitioner. That apart, as adverted to above, when the petitioner himself has stated in no uncertain and unambiguous terms in the subject portion of his letter dated 12.09.2012 that he is not accepting promotion, the respondents cannot be found fault with for passing the impugned order. Furthermore, in the considered opinion of this Court, the respondents have rightly placed reliance on Paragraph 17.12 of Chapter 54 of Swamy's Complete Manual on Establishment and



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not be considered for promotion for a period of one year and further, on his eventual promotion, he would also lose his seniority.

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8. In view of the above discussion, the argument of the learned counsel for the petitioner that the petitioner's letter was wrongly interpreted by the Company Commandant as if he had opted to forgo his promotion, does not have legs to stand, inasmuch as, it runs counter to the petitioner's own request dated 12.09.2012.

9. As a sequitur, this Court holds that the impugned order does not suffer from any infirmity or illegality warranting interference of this Court.

In the result, this writ petition fails and is accordingly dismissed, however, sans costs. Connected W.M.Ps. stand closed.

29.08.2024

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N. MALA, J.

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