



WEB COPY



W.P. No.25759 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.25759 of 2012

and

M.P.No.1 of 2012

Devendar Singh

... Petitioner

Vs.

- 1.The Director General,
Central Industrial Security Force,
C.G.O Complex, Lodhi Road,
New Delhi.
- 2.The Deputy Inspector General/Pers,
Central Industrial Security force,
Head Quarters,
New Delhi.
- 3.The Commandant,
Oil Natural Gas Commission
Central Industrial Security Force,
Jorhant, Assam
- 4.The Commandant,
HTPP, Central Industrial Security Force,
Kasimpur, Aligarh,
Uttar Pradesh.
- 5.The Commandant,

Page No.1 of 6



W.P. No.25759 of 2012

ChPt, Central Industrial Security Force Unit,
Chennai Port Trust, Chennai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 2nd respondent in his order No.V-14013/556/2005/VIVANI/2010/2144 dated 11.08.2012, confirming the order passed by the 5th respondent in his order No.V-15014/CISF/ChPt/Disc & Legal/2009/3731 dated 13.08.2009 and quash the same and to direct the respondents to restore the unit service order Part-II/142/2003 and Unit service Order Part-II No.03/2005 and accordingly to re-fixation of pay the amount recovered from the petitioner from January 2005 to till date.

For Petitioner : Mr.A.S.Mujibur Rahman

For R1to R5 : Mr.Venkataswamy Babu, SPCGOI

ORDER

This writ petition has been filed seeking writ of certiorarified mandamus to call for the records relating to the order passed by the 2nd respondent bearing No.V-14013/556/2005/VIVANI/2010/2144 dated 11.08.2012 confirming the order passed by the 5th respondent in his order No.V-15014/CISF/ChPt/Disc & Legal/2009/3731 dated 13.08.2009 and to quash the same and also sought for consequential direction to the respondents to restore the unit service order Part-II/142/2003 and unit service order Part-II No.03/2005 and to re-fix the pay of the petitioner.

2. The brief facts that are relevant for disposal of this writ petition



are as under:

WEB COPY

While the petitioner was working as Constable in Central Industrial Security Force, he was awarded a punishment of withholding of increment for a period of two years without cumulative effect, by an order dated 09.02.1989. Thereafter, the petitioner was due for Efficiency Bar (in short 'EB') test on 01.01.1992. As the petitioner failed to cross the EB test, the respondents have withheld further two increments without cumulative effect under Rule 24 of Fundamental Rules. Accordingly, withholding of two increments were given effect to due to the failure of the petitioner to pass the EB test on 01.01.1990 and 01.01.1991. Thereafter, the petitioner became fit for EB test and accordingly, became eligible for release of increment with effect from 01.01.1992. At that stage, the respondents have given effect to the order of punishment imposed on the petitioner through proceedings dated 06.02.1989 and accordingly, one increment was withheld for a period of two years and thereafter, the said order of punishment was modified by the appellate authority and accordingly, the same was confined as withholding of one increment for a period of two years.

3. The grievance of the petitioner in this writ petition is on the



ground of withholding of increments by the respondents for want of passing EB test which was due on 01.01.1990 and 01.01.1991.

WEB COPY

4. It is not in dispute that the petitioner is supposed to pass EB test on 01.01.1990. As seen from the counter affidavit as well as from the impugned orders, two increments due on 01.01.1990 and 01.01.1991 were withheld for want of passing EB test and the punishment that was imposed through proceedings dated 09.02.1989 was given effect to with effect from 01.01.1992 i.e., after the petitioner became entitled for release of increments on being fit in the EB test. Nothing is brought to the notice of this Court to find fault with the pay fixation of the petitioner done through impugned orders, though the learned counsel for the petitioner contended that the respondents have already implemented the punishment order that was imposed upon him through proceedings dated 09.02.1989 as modified by the revisional authority as on 01.01.1990 and 01.01.1991, the same is found not correct.

5. As seen from the impugned orders as well as from the counter



W.P. No.25759 of 2012

affidavit, the respondents have taken a categorical stand that the increments that were due to the petitioner on 01.01.1990 and 01.01.1991 were withheld for want of failure of the petitioner to cross EB test which was due on 01.01.1990 in exercise of power under Rule 24 of Fundamental Rules. Hence, the contention of the learned counsel for the petitioner that the said increments due on 01.01.1990 and 01.01.1991 were withheld by only giving effect to the order of punishment dated 09.02.1989 cannot be accepted. In the absence of any contest on the action of the respondents for withholding increments due on 01.01.1990 & 01.01.1991 for want of passing the EB test, this Court does not find any error or illegality in the impugned orders passed by the respondents.

6. Accordingly, the writ petition is dismissed and the connected miscellaneous petitions, if any shall stand closed. No costs.

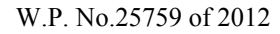
04.09.2024

Index : Yes/No
Speaking Order : Yes/No
dpa

MUMMINENI SUDHEER KUMAR,J.
dpa

To:

Page No.5 of 6



- W.P.No.25759 of 2012
and
M.P.No.1 of 2012

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