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W.P.No.29039



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.29039 of 2012

Thiru R.Arokia Raj

... Petitioner

Vs.

1. The Director General, Directorate, CRPF,
OGO Complex, Lodhi Road, New Delhi – 110 003.
2. The Inspector General, CRPF Southern Sector,
Jubilee Hills, Road No.10-C, New MLC/ MP's Colony,
Gayathri Hills, Hyderabad – 500 033.
3. The Deputy Inspector General of Police,
Group Centre, CRPF, Avadi, Chennai – 600 065.
4. The Deputy Inspector General of Police,
Group Centre, CRPF, Chandrayangutta,
Hyderabad – 500 005.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent dated 5th July 2011 in his proceedings No.P VII-1/2001 Min and calling for the records of 3rd respondent dated 30th May 2012 in his proceedings No.P.VII.5/12-EC-3 and quash the same and further direct the first respondent to promote the petitioner as SI (M) with restrospective effect prior to or from 18.9.2000, the date on which his immediate junior No.911590017 SI (M) Pwileu Narzary was promoted in ST Category as SI(M) with resultant benefits and further direct the 3rd and 4th respondents to regularize the petitioners removal period from service from 12.9.2003 to 16.4.2006 as duty



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for all purposes including drawal of back wages and arrears.

For Petitioner : Mr.K.R.Sundarakantham
For Respondents : Mr.T.L.Thirumalaisamy, CGC

ORDER

The petitioner herein, who was initially appointed as 'Constable (GD)' in CRPF on 16.02.1989, once again participated in the recruitment process for the post of 'ASI (M)' in CRPF and got selected and appointed as such on 18.03.1991 under the ST category. It was thereafter, a dispute arose with regard to his social status and the community certificate, basing upon which the petitioner was appointed to the post of 'ASI (M)' and the said social status certificate came to be cancelled by the District Level Vigilance Committee, Salem, by an order dated 04.08.2000. It was thereafter, the petitioner filed an appeal before the State Level Scrutiny Committee, Adi Dravidar Tribal Welfare Department, Chennai, against the order dated 04.08.2000 passed by the District Level Vigilance Committee.

2. In the meanwhile, the case of the petitioner was considered for elevation to the post of 'SI(M)' and accordingly, he was promoted to the said post through the promotion order dated 28.08.2001. However, the same was withheld due to the dispute with regard to his social status. Simultaneously, a charge-memo dated 16.10.2001, came to be issued initiating departmental enquiry against the



petitioner and consequently, the petitioner was removed from service by an order dated 12.09.2003 by the Deputy Inspector General, CRPF, Hyderabad by an order bearing No.P VIII.6/2002-Estt-3. Aggrieved by the order of removal dated 12.09.2003 and the order dated 04.08.2000 passed by the District Level Vigilance Committee, Salem, the petitioner approached this court by filing W.P.No.26881 of 2003. After taking into consideration the totality of the circumstances, the learned Division Bench came to the conclusion that the order passed by the District Level Vigilance Committee, dated 04.08.2000, is not sustainable for want of proper constitution of the said committee and also terminated the appeal proceedings, which are pending before the State Level Scrutiny Committee and also set aside the order of removal dated 12.09.2003, and remanded the matter back to the District Level Vigilance Committee for re-examining the matter afresh, while directing reinstatement of the petitioner into service and subjecting the entitlement of the petitioner for backwages to the result of the proceedings before the District Level Vigilance Committee.

3. The operative portion of the said order dated 30.08.20005 reads as under:-

“The order dated 04.08.2000 on the file of the District Level Committee, Salem, cancelling the petitioner's community certificate is quashed. The appeal proceedings



stated to be pending before the State Level Committee is terminated. As the impugned order is based on the cancellation of the petitioner's community certificate alone, the said order is also quashed. We also make it clear that our today's order would not come in the way of the appropriate committee constituted after the judgment of the Supreme Court to verify the community status of the writ petitioner either on its own or its being referred to by the employer/ respondent. As the writ petitioner is out of service consequent to the dismissal order, he would be entitled to reinstatement into service in the last post held by him by the respondent within four weeks from the date of receipt of a copy of this order. The writ petitioner would not be entitled to backwages from the date of dismissal till the date of reinstatement, which would have to wait the decision of the appropriate committee which would verify the committee status of the writ petitioner. The writ petitioner would be entitled to draw salary from the date of reinstatement in the last scale of pay drawn by him."

4. In terms of the above order, the petitioner was reinstated into service, and the proceedings pertaining to the social status of the petitioner ended in favour of the petitioner. His social status as 'Hindu – Kammara', a Scheduled Tribe community was upheld by the State Level Scrutiny Committee through order bearing No.8565/C/VIII/2008-2009, dated 24.12.2010. Consequently, the appointment of the petitioner in the post of 'ASI(M)' was confirmed and accordingly, the respondents have given the benefit of entire service to the petitioner and also paid the backwages for the period during which the petitioner was kept out of service during the years 2003-2006 and he was also extended the benefit of promotion with effect from 28.08.2001.



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5. The claim of the petitioner in the present writ petition is for promotion to the post of 'SI(M)' on par with his immediate junior belonging to ST category, who was promoted to the post of 'SI(M)' during the year 2000. The petitioner has made a specific averment in Paragraph No.14 of the affidavit stating that one Pwileu Narzary and one John Marthong are at Sl.Nos.1511 and 1516 respectively in the seniority list in the cadre of ASI (M), whereas the petitioner was at Sl.No.1457. But the above said juniors were promoted under the ST category to the post of 'SI (M)', ahead of the petitioner, but the petitioner was not extended the benefit on par with his immediate juniors under the ST category.

6. Though the respondents have filed counter-affidavit stating that the petitioner was given promotion to the post of 'SI(M)' with effect from 28.08.2001, contended that the petitioner has not raised any objection when his immediate juniors were promoted to the post of 'SI(M)' during the year 2000-2001, but raised such a claim at a belated stage. Except stating that the petitioner has made a claim for promotion on par with his immediate junior at a belated stage, no other reason is assigned in the counter-affidavit. It is not in dispute that the above said two persons, are juniors to the petitioner in the cadre of 'ASI (M)' and they were promoted ahead of the petitioner during the year 2000-2001 and whereas the



petitioner was given promotion during the year 2001-2002.

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7. In the absence of any dispute about the factual aspects, especially the juniors of the petitioner being promoted to the post of 'SI(M)' ahead of the petitioner, in the considered view of this court, the claim of the petitioner cannot be denied solely on the ground of delay, especially taking into consideration the fact that the entire service of the petitioner entered in bad weather during the year 2000 itself. When there was a dispute about the social status of the petitioner, and in such a bad weather, the petitioner is not expected to concentrate on his promotion on par with his juniors, as his very appointment to the service was in dispute.

8. Under these circumstances and especially, taking into consideration the undisputed facts that the juniors of the petitioner viz., one Pwileu Narzary and one John Marthong, were promoted to the post of 'SI(M)' during the year 2000-2001, this court is of the considered view that the petitioner is also entitled for such promotion on par with the said juniors.

9. Accordingly, the impugned order bearing No.P.VII-1/2001-Min dated 05.07.2011, to the extent of giving promotion prospectively, is hereby quashed



and the respondents are directed to extend the benefit of promotion together with all consequential benefits to the petitioner on par with his immediate juniors viz., one Pwileu Narzary and one John Marthong, and disburse all the benefits payable to the petitioner, as expeditiously as possible, at any rate within a period of eight weeks from the date of receipt of a copy of this order.

10. Accordingly, the writ petition is allowed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

10.12.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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