



W.P.No.4822 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 31.01.2024

CORAM:

THE HON'BLE DR JUSTICE D.NAGARJUN

W.P.No.4822 of 2015

Sheik Ahmed

...Petitioner

Versus

- 1.The Union Of India,
Rep.by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.
- 2.The Director General,
Central Industrial Security Force,
CGO Complex,
Lodhi Road,
New Delhi.
- 3.The Deputy Inspector General,
Central Industrial Security Force,
South Zone, Head Quarters,
Rajaji Bhavan,
Besant Nagar,
Chennai – 600 090.
- 4.The Deputy Inspector General,
Central Industrial Security Force,
Neyveli,
Cuddalore District.



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5.The Group Commandant,
Central Industrial Security Force,
South Zone, Head Quarters,
Group Headquarters,
Rajaji Bhavan,
Besant Nagar,
Chennai – 600 090.

6.The Deputy Commandant,
Central Industrial Security Force,
CPCL, Manali,
Chennai – 600 068.

...Respondents

Prayer: This writ petition is filed under Article 226 of the Constitution of India, with a prayer to issue a writ of certiorarified Mandamus to call for the records relating to the order passed by the 4th respondent dated 23.06.2014 in his order No.E-15015/ACR-SOs/NLC(N)PA/2014-6728 and quash the same and to direct the respondents to extend the benefits under the Second MACP with notionally with effect from 28.08.2012 and to pay the arrears and to revise the pension from 01.09.2012 to till date and continue to pay to the petitioner.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.A.Murughan
CGC



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ORDER

This writ petition is filed seeking for certiorarified mandamus seeking quashment of order passed by 4th respondent in Order No.E-15015/ACR-SOs/NLC(N)/PA/2014-6728 and direct the respondent to extend the benefits of the petitioner under the Second “Modified Assured Career Progression Scheme” (for the sake of convenience “MACP”) notionally with effect from 28.08.2012 and to pay the arrears and to revise the pension from 01.09.2012.

2. The petitioner has joined CISF as a constable on 10.03.1982, and was selected as ASI Clerk with effect from 28.08.1992. He submitted application, voluntary retirement accordingly retired from service with effect from 31.08.2012. As per the MACP Scheme, the petitioner is entitled to the benefits from 28.08.2012. As second MACP was issued with effect from 31.08.2012, the second MACP benefits should have been sanctioned to the petitioner with effect from 28.08.2012.

3. The petitioner has worked under the 6th respondent from 01.01.2011 to 22.12.2011 and the Annual Confidential Report or APAR



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for the period 01.01.2011 to 22.12.2011 was prepared by the 6th respondent grading the petitioner performance “average”. As petitioner, was transferred in the month of December 2011 he could not submit any representation in respect of adverse comments made in Annual Confidential Report for the period 01.01.2011 to 22.12.2012. The petitioner has preferred an appeal in respect of remarks of recording his performance as “average” in Annual Confidential Report of 2011, but the said appeal was not entertained as per the impugned order 23.06.2014 on the ground that as per the Rules, the petitioner should have been made a representation within a period of 15 days from the date of receipt of copy of his Annual Confidential Report. Aggrieved by the same the present writ petition has been filed by the writ petitioner.

4. Mr.A.Murughan, learned counsel for the respondent has filed a detailed counter stating that the petitioner can prefer an appeal aggrieved by the adverse remarks, within a period of 15 days as per the Rules. However appeal was preferred by the petitioner only on 25.02.2014 with a delay of two years, thereby, the appeal was not considered. Screening Committee has considered the request of the petitioner, to extend the



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benefits of Second MACP but it was declined on the ground that his APAR (Annual Performance Assessment Report) for the year 2011 was recorded as “average”.

5. Considered the submissions made by both the parties and perused all the available records.

6. The petitioner has filed this writ petition questioning the impugned order No.E-1505/ACR-SOs/NLC(N)/PA/2014-6728 dated 23.06.2014 through which the respondent has not considered the appeal filed by the petitioner against the adverse remarks passed in petitioner's APAR of the year 2011, on the ground of delay of two (2) years in preferring the appeal from the date of receipt of copy of his adverse remarks. As per the Rules, the appeal should have been filed within 15 days of receiving the copy of adverse remarks.

7. As seen from the affidavit filed by the petitioner, petitioner has received the copy of his APAR of the year 2011 grading his performance as “average”, and on account of domestic issues, he could not prefer the



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appeal in time.

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8. The petitioner is not entitled to the relief to direct the respondent, as granting of the Second MACP to the petitioner would arrive only in case if the adverse remarks passed against the petitioner in the year 2011 are modified by the respondent. As long as there are adverse remarks, the petitioner is not entitled to Second MACP benefits.

9. Consequently, in view of the above, the writ petition is disposed of in part declining to interfere with the impugned order dated 23.06.2014, refuse to grant Second MACP benefits to the petitioner with effect from 31.08.2012. However the petitioner is at liberty to prefer an appeal in time with proper format within a period of eight (8) weeks from the date of receipt of copy of this order. If the petitioner choose to prefer an appeal, the respondents are directed to admit the same and dispose of the same within a period of eight (8) weeks thereafter by following the due process. There shall be no order as to costs.



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10. Passing of this order does not mean that the petitioner is entitled for relief of Second MACP benefits. The respondents are at liberty to take appropriate decision in deciding the appeal on merits.

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Index :Yes/No
Speaking :Yes/No
Neutral Citation Case:Yes/No
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DR D.NAGARJUN,J.

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