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W.P.No.39534 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

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THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.No.39534 of 2016
and W.M.P.No.33813 of 2016

H.K.Mahapatra

... Petitioner

-VS-

- 1.The Union of India,
represented by its Secretary to Government,
Ministry of Home Affairs,
New Delhi - 110 003.
- 2.The Director General,
Central Industrial Security Force,
CGO Complex, New Delhi.
- 3.The Inspector General,
Central Industrial Security Force,
Southern Sector,
Near War Memorial,
Chennai – 600 009.
- 4.The Deputy Inspector General,
Central Industrial Security Force,
South Zone Head Quarters,
Rajaji Bhawan,
Besant Nagar,
Chennai – 600 090.



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5.The Commandant,
Central Industrial Security Force Unit,
Patratu, Ramgarh 829 119,
Jharkhand State.

6.The Assistant Commandant,
Central Industrial Security Force Unit,
MRPL - Mangalore 575 030.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 5th respondent dated 08.11.2011 in his Order No.E-15014/CISF/PTPS/ACR/2011/3347 and the order dated 26.07.2016 in his Order No.E-28014/CISF/PTPS/DOC/ACR/2015/459 communicated by the 6th respondent dated 29.07.2016 in his Office Memorandum No.298 of 2016 in No. E-42099/CISF/MRPL/LEAVE/ DOC/2016/1552 and quash the same and to direct the 4th respondent to pass orders on the representation of the petitioner dated 08.07.2016 and promote the petitioner as Head Constable with effect from the year 2012 and grant MACP from 2010 to 2013 and pay all benefits.

For petitioner : Mr.R.Thiyagarajan

For respondents : Mr.M.Aravind Kumar,
Senior Central Government
Panel Counsel



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ORDER

This writ petition has been filed challenging the order passed by the 5th respondent, rejecting the request of the petitioner to consider his ACR grading for the year 2009, which was deliberately degraded by the Assistant Commandant, Central Industrial Security Force Unit, BLSM-Bhawanathapur, Jharkhand, without any reason.

2. Without traversing through the entire facts of the case, it appears that the petitioner who had joined in services of the Central Industrial Security Force on 04.12.1990 was eligible to be considered for a grant of ACR for the year 2008-2009. A representation to this effect was made to the 5th respondent. However, the 5th respondent by his order dated 08.11.2011 informed him that since the aggregate marks secured by him was only 46.5 marks and the required bench mark is 50 marks for the grant of MACP, the benefit of MACP was not granted to him. He once again made a representation dated 12.09.2014 to the 5th respondent with a



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request to review the ACR. This was also turned down.

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3. The petitioner would submit that he is eligible for the 2nd MACP in the year 2010 and promotion to the rank of Head Constable from the year 2012. However, this 2nd MACP was granted to him only in the year 2013 and the promotion to the rank of Head Constable from the year 2012, all of which, was on account of the fact that his aggregate marks were below 50 marks.

4. This Court, by an order dated 24.06.2024, directed the respondents to submit the files relating to the grading of the petitioner for the years 2008 and 2009. The said records have been produced before this Court. A perusal of the same would indicate that for the period of 01.01.2008 to 01.09.2008, his grading was shown as 'Good'. The Reviewing Officer had also agreed with the grading. For the period of 02.08.2008 to 31.12.2008, his grading was shown as 'Average'. Thereafter, for the period of 01.01.2009 to



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31.12.2009, the petitioner was given a grading as 'Outstanding'.

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During the review, the Reviewing Officer has simply stated as follows:

“I do not agree. Hence, graded 'Average'.”

This order of the Reviewing Officer was on 05.01.2009. This Court is at loss to understand how when the Reporting Officer has graded the petitioner as 'Outstanding' on 02.01.2010, the Reviewing Officer would graded him on 05.01.2009, that too, for the period of 01.01.2009 to 31.12.2009. Be that as it may, even in the annual remarks form, it is clearly stated that if the Reviewing Officer does not agree with the decision made by the Reporting Officer, he should specify the disagreement and reasons thereof. But, such a reason is not found in the Reviewing Officer order.

5. It appears that the individual thereafter, appealed against the above said order of grading and the Commandant had assessed his grading as 'Good'. This reversal of the grading from 'Average' to



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'Good' has not been taken note by the 5th respondent in his impugned order. If the aggregate marks had been given to the petitioner on the basis of grading 'Good', there is every possibility of him having secured the bench mark *viz.*, 50 marks.

Therefore, this writ petition is disposed of with a direction to the 5th respondent to once again re-consider the case of the petitioner in the light of the above observation of this Court and re-assess his marks and pass orders within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected W.M.P. stands closed. No costs.

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Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
ssa



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P.T.ASHA, J.,

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