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W.P.No.10983 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	5/3/2024
Delivered on	29/4/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.10983 of 2014

a n d

M.P.No.1 of 2014

V.Ramakrishna

„„

Petitioner

Vs

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 Unit
No.13 CGO Complex
Lodhi Road
New Delhi 110 003
3. The Deputy Inspector General
Central Industrial Security Force Unit
South Zone, Head Quarters
Rajaji Bhawan, Besant Nagar
Chennai 600 090.



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4. The Commandant
Central Industrial Security Force Unit
Chennai Port Trust
Chennai 600 001.

5. The Assistant Commandant
Central Industrial Security Force Unit
Chennai Port Trust
Chennai 600 001.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus to call for the records relating to the appellate order passed by the fourth respondent dated 8/1/2014 in his Appellate Order No.V-15014/Disc/Min-50/Appeal-12/2013/192 and Appellate Order No.V-15014/Disc/Min-50/Appeal-06/VRK-32/2013/5794 dated 6/8/2013 confirming the orders passed by the fifth respondent dated 28/5/2013 in his final order No.V-15014/Disc/Min/VRK-50/2013/8362 and quash the same and to direct the respondents to promote the petitioner as Sub-Inspector with effect from 2006 and to pay ACP benefits with effect from 1996 and all monetary benefits.

For petitioner	...	Mr.A.S.Mujibur Rahman
For respondents	...	Mr.Venkataswamy Babu Senior Panel Counsel for Government of India

ORDER

This writ petition is filed to quash the order dated 8/1/2014 passed by the fourth respondent in Appellate Order No.V-15014/Disc/Min-



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50/Appeal-12/2013/192 and consequently, direct the respondents to promote the petitioner as Sub-Inspector with effect from 2006 and to pay ACP benefits with effect from 1996 and all monetary benefits.

2. Brief facts that are necessary for the disposal of this writ petition are as follows:-

The petitioner has joined in the Central Industrial Security Force as Constable on 10/10/1984 and promoted as Head Constable in the year 2005. In the year 2011, he was transferred from CISF Unit, Duliajan, Assam to the Chennai Port Trust/fifth respondent. While serving under the fifth respondent, a charge memo, under Rule 37 of the CISF Rules was issued. A detailed representation was given by the petitioner. But without considering the representation, fifth respondent has awarded the punishment of pay fine equivalent to one day pay on 28/5/2013. Appeal against the order of the fifth respondent was submitted before the fourth respondent on 10/6/2013. But the fourth respondent has also rejected the appeal on 6/8/2013.



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3. Vide, Memorandum, dated 5/11/2013, fifth respondent has issued the Article of Charge under Rule 37 of CISF Rules. Thereafter, a representation dated 14/11/2013 was submitted. Without considering the representation, fifth respondent has passed the order on 20/11/2023 awarding the punishment of pay fine equivalent to one day pay. An appeal was filed before the fourth respondent on 7/12/2013 and vide, order, dated 8/1/2014. Being aggrieved, the petitioner has come forward with the instant writ petition.

4. The Commandant, CISF Unit, CHPA, Chennai, has filed a counter affidavit, wherein it is stated that as per seniority, the petitioner has already been promoted to the rank of HC/GD w.e.f 28/11/2005. As regards granting of ACP/MACP, as per guidelines issued by Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi, vide letter No.35034/1/97-Estt (D) dated 9/8/1999, on completion of 12 years, the petitioner has been granted one financial upgradation under ACP Scheme w.e.f 9/8/1999 vide Commandant CISF Unit SCCL Bellampalli Service Order Part -11 No.330/2001 dated 21/5/2001.



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5. Further, it is stated that as per guidelines issued by Force Head Quarters, New Delhi, vide letter No.42099/27/2009.Estt-1/117 dated 28/7/2009 (Annexure-9) on completion of 20 years of service, the petitioner was granted second MACP w.e.f 1/9/2008 by Commandant CISF Unit OIL Duliajan vide USO Part – 1 No.143/2009 dated 17/11/2009. Without prejudice, all the admissible benefits have been granted to the petitioner. As per seniority, case of the petitioner, will be considered for promotion to the next higher rank in due course of time.

6. Heard Mr.A.S.Mujibur Rahman, learned counsel for the petitioner and Mr.Venkataswamy Babu, learned Senior Panel Counsel for Government of India for the respondents and perused the records.

7. The learned counsel appearing for the petitioner submitted that as per the CISF Circular No.1 of 2014, the petitioner is entitled to ACP and MACP and the said Schemes were came into existence with effect from 9/9/1999 and 19/5/2009, respectively. The petitioner is entitled to the benefits on completion of 12 years i.e., w.e.f 1996. Thereafter, the petitioner is entitled to MACP Scheme on completion of 10 years, i.e., in



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the year 2004, but the ACP benefits was granted to the petitioner in the year 2005 itself.

8. The petitioner was working as Constable in the respondent CISF. The petitioner was served with a charge memo under Rule 37 of the CISF Rules for permitting a vehicle contrary to the procedure. He was also served with another charge memo for allowing the person to take the port without any valid permission. On both the charges, the petitioner was found guilty and he was imposed with a punishment of **“Pay fine equivalent to one day pay”**. The petitioner has submitted an appeal and that was also dismissed. According to the petitioner, charges against him are not proved and he was not at fault and on account of the punishment imposed his MALPS would not be realised on time.

9. On going through the final order, it is clear that misconduct against the petitioner has been proved. Enquiry was conducted properly. In respect of second charge of allowing a person without permission, the petitioner has admitted the guilt and submitted an explanation that on humanitarian grounds, he has permitted a person inside the port which is a clear violation of the Rules. Even in respect of first charge also, there



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is no perverseness in giving a finding. The punishment imposed is also very minor.

10. This Court can interfere with the domestic enquiry when impugned orders have been passed in violation of principles of natural justice or against the evidence recorded by the Enquiry Officer. There is no infirmity in the order passed by the fourth respondent and hence, no interference need to be required.

11. In the result, this writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

29/4/2024

mvs.

Index: Yes/No

Neutral Citation: Yes/No



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Dr.D.NAGARJUN,J

mvs.

Pre-delivery order made in
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