



WEB COPY



W.P.No.269 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.269 of 2017

Mr.S.Shanmuganadan

... Petitioner

vs.

1. 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 – 110 003.

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,
'D' Block, Rajaji Bhavan,
Besant Nagar, Chennai – 600 090.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of



W.P.No.269 of 2017

India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 2nd respondent in his order No.E-31013 (1)/3/ 2016/ Pers.I/855 Dated 20.10.2016 and quash the same and to direct the respondents to pass orders on the representation of the petitioner dated 03.10.2016 and to pay all Notional Promotion from 21.05.2006 to 30.04.2007 to the post of Deputy Inspector General and to order difference of pay revision of Retirement benefits and revision of Pension and continue to pay the revised Pension.

For Petitioners : Mr.M.Md.Ibrahim Ali

For Respondents : Mr.V.Chandrasekaran
Senior Panel Counsel

ORDER

The instant writ petition is filed for the following relief:

“for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 2nd respondent in his order No.E-31013(1)/3/2016/Pers.I/855 Dated 20.10.2016 and quash the same and to direct the respondents to pass orders on the representation of the petitioner dated 03.10.2016 and to pay all Notional Promotion from 21.05.2006 to 30.04.2007 to the post of Deputy Inspector General and to order difference of pay revision of Retirement benefits and revision of Pension and continue to pay the revised Pension.”

2. The petitioner retired as a Senior Commandant Group 'A' services, in April 2007. According to the petitioner, he was eligible for promotion to



W.P.No.269 of 2017

the post of Additional Deputy Inspector General (in short 'ADIG') with effect from 20.05.2006 to 30.04.2007. As the petitioner was denied promotion during the relevant period, inspite of vacancy, the petitioner gave a representation to the respondent on 03.08.2016. The respondent vide the impugned order dated 20.10.2016 rejected the petitioner's request for promotion as ADIG. Aggrieved by the order of the respondent, the petitioner has filed the present writ petition.

3. The respondents filed a counter stating that pending the new Recruitment Rules for the post of ADIG, the Union Public Service Commission (in short 'UPSC') vide its letter dated 22.02.2006 issued a 'Mode of Recruitment' for convening DPC meeting for the post of ADIG. In the said Mode of Recruitment, the eligibility criteria fixed for promotion to the rank of ADIG, was as follows:

“Senior Commandant with two years' regular service in the grade and total 18 years' regular Group 'A' service failing which Senior Commandant with 21 years combined regular Group 'A' service and regular Group 'B' Gazetted Service, and

Being in medical category SHAPE-1, and

Should have successfully undergone pre-promotion course/training as prescribed by the Director General, CISF from time to time.”



W.P.No.269 of 2017

WEB COPY

4. It is stated that as per the recruitment rules, the petitioner ought to have completed 18 years in group 'A' service as also two years service in the grade of Senior Commandant as on 01.01.2006, for promotion for the vacancy year 2006-07. Though the petitioner completed 18 years Group 'A' service, he however, did not complete the requisite two years service in the grade of Senior Commandant, as on 01.01.2006. Therefore, the petitioner was ineligible for consideration for promotion to the post of ADIG against the vacancy for the year 2006-07.

5. It is further stated that the petitioner completed two years of service in the grade of Senior Commandant on 20.05.2006 and therefore, he was eligible for consideration for promotion to the post of ADIG as on 01.01.2007 only i.e., the crucial date for determining the eligibility for the vacancy for the year 2007-08. Accordingly, the DPC meeting for promotion from Senior Commandant to the post of ADIG against one vacancy for the year 2007-08 was held on 13.02.2007 and in the said DPC one Shri.A.N.Mahapatra, who was senior to the petitioner, was empanelled for promotion vide UPSC letter dated 15.02.2007. The respondent therefore



W.P.No.269 of 2017

stated that the petitioner was not promoted to the post of ADIG for the aforesaid reasons and also for want of vacancy before his retirement on 30.04.2007. The respondents hence prayed for the dismissal of the writ petition.

6. The learned counsel for the petitioner submitted that the averment of the respondent that there was no vacancy at the time of the petitioner's retirement on 30.04.2007, was a false statement, because on the date of DPC i.e., on 13.02.2007, there was a vacancy in CSIF Training Centre, Arakonam. The petitioner's counsel therefore submitted that the statement in the impugned order that there was no vacancy on the date of the petitioner's retirement was false and hence, the same deserved to be set aside.

7. The learned counsel for the respondents relying on the counter affidavit submitted that there was no suppression or false statement either in the impugned order or in the counter affidavit. The counsel submitted that there was one vacancy for the year 2007-08. In the DPC which was held on 13.02.2007 for the promotion to the post of ADIG against the lone vacancy,



W.P.No.269 of 2017

one Mr.A.M.Mahapatra, who was senior to the petitioner was empanelled and was promoted. The said officer assumed charge of the post of ADIG on 02.04.2007. The petitioner could not be promoted to the post of ADIG against the sole vacancy for the year 2007-08, only for the reason that his senior was promoted and there was no vacancy for the year 2007-08, before the petitioner's retirement on 30.04.2007.

8. Heard the learned counsel on either side and perused the materials available on record.

9. Admittedly, the petitioner was a Senior commandant in Group-A service and retired on 30.04.2007. The petitioner though retired on 30.04.2007, gave a representation only on 03.10.2016 to the respondent herein to promote him to the post of ADIG notionally and the respondent vide impugned order dated 20.10.2016 rejected the petitioner's request for promotion. The petitioner aggrieved by the rejection order has filed the present writ petition.

10. First of all, there is no explanation as to why the petitioner waited



W.P.No.269 of 2017

for more than eight years for giving a representation requesting the respondent to promote him notionally. Be that as it may. The petitioner was promoted as Senior Commandant on 21.05.2004 and he completed two years of service in the grade of Senior Commandant only on 20.05.2006.

11. As per the Recruitment Rules, the petitioner ought to have completed 18 years regular Group 'A' service with two years regular service in the grade of Senior Commandant. As stated above, the petitioner did not complete two years service in the grade of Senior Commandant as on 01.01.2006, which was the crucial date for determining eligibility for promotion for the year 2006-07 and therefore, he was not eligible for promotion to the vacancy for the year 2006-07. The petitioner became eligible for consideration for promotion to the post of ADIG in the vacancy for the year 2007-08 on 01.01.2007. For the year 2007-08, there was only one vacancy. The DPC was held on 13.02.2007 for the lone vacancy for the year 2007-08 and one A.M.Mahapatra, who was senior to the petitioner was empanelled for promotion and he was promoted as ADIG. The said officer took charge on 02.04.2007. The petitioner thereafter retired on 30.04.2007 which means that though the petitioner was eligible for promotion for the year 2008-09, as he retired on 30.04.2007, he could not be promoted.



W.P.No.269 of 2017

WEB COPY

12. The facts being so, the petitioner's contention that there was a vacancy at the time of his retirement and therefore, he ought to have been considered for the promotion to the post of ADIG cannot be countenanced. I therefore, find absolutely no illegality or infirmity in the impugned order.

13. In view of the above discussion, there are no merits in the writ petition and the hence, the same is dismissed. No Costs.

13.08.2024

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
ars

To

1. The Secretary to Government,
Union of India,
Ministry of Home Affairs,
New Delhi.

2. The Director General,
Central Industrial Security Force,
CGO Complex, Lodhi Road,
New Delhi – 110 003.

3. The Inspector General,

8/10



W.P.No.269 of 2017

Central Industrial Security Force,
Southern Sector,
Near War Memorial,
Chennai – 600 009.

4. The Deputy Inspector General,
Central Industrial Security Force,
'D' Block, Rajaji Bhavan,
Besant Nagar, Chennai – 600 090.



WEB COPY



W.P.No.269 of 2017

N.MALA, J.

ars

W.P.No.269 of 2017

13.08.2024