



W.P.(MD) No.22013 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.22013 of 2021

R.Bose

... Petitioner

Vs.

1.The Principal Chief Security Commissioner,
Railway Protection Force, Southern Railway,
Moore Market Complex,
Chennai-600 003.

2.The Divisional Security Commissioner,
Railway Protection Force,
Madurai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order No.X/37/K/Staff matters dated 10.08.2021 issued by the Principal Chief Security Commissioner, Railway Protection Force, 1st respondent herein and quash the same as arbitrary, illegal and violation of Directive No.18, dated 27.02.1977 and 18.07.2006 issued by the Director General, Railway Protection Force, New Delhi and the Addendum dated 13.09.2006 issued by the Railway Board and to consequently direct the



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respondents herein to grant monetary and retirement benefits including monthly pension payable to the grade of Head Constable and the grade of Sub Inspector of Railway Protection Force for having served as Constable and Head Constable in the Ex-cadre post in the Dog Squad, Railway Protection Force, Southern Railway during the year 2008 to 2019 to the petitioner.

For Petitioner : Mr.Kavin Prasad
for Mr.Y.Jacob

For Respondents : Mr.K.R.Laxman
Central Government Senior
Panel Counsel

ORDER

The petitioner herein, who was initially appointed as Constable in Railway Protection Force in the year 1986 in the Executive Cadre, was transferred to the Ex-cadre post in the year 2008 and posted in Dog Squad/Kennel after completion of required training. The lien is continued over the post of Constable in his parent cadre (Executive Cadre) itself for consideration of his case for further promotion in the Substantive Cadre/Executive Cadre. The case of the petitioner was considered for promotion to the post of Head Constable in his parent cadre and he was



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promoted as such on 01.12.2013. Thereafter, the petitioner continued in the Ex-cadre post. At that stage, the petitioner was declared medically not fit and was continued in a supernumerary post at Chennai Division and subsequently on his request, was transferred to Madurai Division on 23.02.2019 and voluntarily retired from service on 31.08.2019. Consequent upon the retirement of the petitioner on medical ground, his son was appointed as Track Maintainer on compassionate grounds and he has been working as such.

2. At that stage, the petitioner submitted a representation dated 05.07.2021 by making a claim that in terms of Directive No.18, dated 18.07.2006, as amended by Addendum, dated 13.09.2006, he is entitled for next higher grade of Ex-cadre post than the post held by him in the Executive Cadre. The basis for claiming as above is Paragraph No.(6A) of Directive No.18, which reads as under:

“(6A) The staff inducted into the ex-cadres shall be given next higher grade, irrespective of their years of service in the parent cadre.”



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3. The case of the petitioner was considered by the respondents and the impugned order dated 10.08.2021 was issued stating that the petitioner was holding the post of Head Constable/Kennel, Ex-cadre post in between 2008-2013, though his substantive post was only Constable in the Executive cadre and further, informed that the case of the petitioner for one grade higher in Ex-cadre can be considered with reference to the substantive rank in parent cadre subject to other conditions prescribed under the rules. Thus, it is contended by the respondents that though the petitioner was working as Constable only in the Executive cadre/parent cadre, on his transfer to the Ex-cadre post of Dog Squad/Kennel, he was posted as Head Constable and he was also paid all the benefits that are payable to the cadre of Head Constable. Thereafter, though the petitioner was promoted to the post of Head Constable in his parent cadre with effect from 01.12.2013, the same does not entitle the petitioner to claim for one grade higher than the post of Head Constable, as the said benefit is available only on his transfer to the Ex-cadre post, but not on every occasion of his promotion in the parent cadre.



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4. Though the petitioner has filed a lengthy affidavit, made a claim for extending all the benefits from the year 2008 to 2019, has not stated as to what are the benefits not extended to him and what exactly the benefit for which the petitioner would be entitled to and what are the amounts that are due and payable to the petitioner. In the absence of any specific contentions raised by the petitioner, it is not possible for this Court to examine the claim of the petitioner in detail.

5. Further, from the language used in Paragraph No.(6A) of Directive No.18, as amended by Addendum, dated 13.09.2006, the same is available only at the time of induction into the Ex-cadre and there is nothing to show that the same is available on every promotion of the petitioner in his parent cadre. Thus, the claim of the petitioner for the benefit of Assistant Sub Inspector, that is, next higher grade to that of the post of Head Constable with effect from the date of his promotion to the post of Head Constable in the parent cadre is not sustainable. However, the claim of the petitioner for the benefits in the cadre of Head Constable from the year 2008, i.e., from the date of his transfer to the Ex-cadre post till the date of his promotion to the post of



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Head Constable in the parent Department, i.e., 01.12.2013 is concerned, there is no dispute.

6. According to the respondents, as contended in the impugned order as well as in the counter affidavit, the petitioner was paid all the benefits that are payable in the next higher grade of Constable, i.e., Head Constable for the period from 2008 to 2013.

7. As already noted above, no factual matrices are available before this Court to verify. In the circumstances, this Court is not inclined to interfere with the impugned order dated 10.08.2021 passed by Respondent No.1. However, in case, if the petitioner is of the view that the benefits for which the petitioner is entitled to on being inducted in the next higher grade to that of the Constable on his transfer to the Ex-cadre post, are not extended for the period 2008 to 2013, the petitioner is granted liberty to submit a detailed representation before Respondent No.2 within two weeks from the date of receipt of a copy of this order and in case, if any such representation is submitted by the petitioner, the respondents are directed to consider the



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same and pass a speaking order as expeditiously as possible, at any rate, within a further period of eight weeks explaining as to how the said benefits stated to have been extended to the petitioner as contended in the impugned order and communicate the same to the petitioner. In case, if it is concluded that any benefits are due to the petitioner, the same shall be extended to the petitioner within a further period of two months.

8. Subject to above observations, this Writ Petition is dismissed.

No costs.

06.03.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

ABR

To

1. The Principal Chief Security Commissioner,
Railway Protection Force, Southern Railway,
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MUMMINENI SUDHEER KUMAR, J.

ABR

2.The Divisional Security Commissioner,
Railway Protection Force, Madurai.

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