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W.P.No.4937 of 2

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.12.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 4937 of 2022

M.Dakshina Murthy

...Petitioner

Vs.

1.Union of India,
Rep. By its Secretary to Government,
Ministry of Home Affairs,
New Delhi.

2.Director General,
Central Industrial Security Force,
(Ministry of Home Affairs)
13, CGO's Complex,
Lodhi Road,
New Delhi – 110003.

3.Inspector General (SS),
CISF SS HQRS,
CISF CHPT Campus,
Chennai – 600 009.

4.Deputy Inspector General (pers)
Central Industrial Security Force,

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(Ministry of Home Affairs)
13, CGO's Complex,
Lodhi Road,
New Delhi – 110003.

5. Deputy Inspector General,
South Zone,
Rajaji Bhavan, Besant Nagar,
Chennai – 600 090.

6. Assistant Inspector General (Pers.)
GCO's Complex,
Lodhi Road,
New Delhi – 110003.

...respondents

Prayer: Writ Petition is filed under Section 226 of the Constitution of India for issue of Writ of Certiorarified Mandamus, calling for the records relating to order No.E-36016 / 21/ 2008 / Pers.I/43 issued by the 6th respondents dated 15.01.2021, quash the same and direct the respondents to grant Senior Time Scale in favour of the petitioner w.e.f., 20.04.2009 with all consequential benefits, including arrears of pay and allowances and refixation of pension and arrears of pension with interest at 12% per annum for the period of delay.

For Petitioner : Mrs.Y.Kavitha
For M/s. P.V.S.Giridhar & Sai

For respondents : Mr. A.R.Sakthivel
Senior Panel Central Government
Standing Counsel



ORDER

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Challenging the rejection of request for grant of Senior Time Scale of pay (Senior Time Scale) through the impugned order, the petitioner is before this Court seeking an issue of certiorarified mandamus to quash the order and consequently direct the respondents to grant Senior Time Scale to the petitioner with effect from 20.04.2009, with all consequential benefits including arrears of pay, allowances and re-fixation of pay and arrears of pension with interest at 12 % per annum for the period of delay. The brief facts of the case are as follows.

2. The petitioner had entered the service of the respondents force, namely, the Central Industrial Security Force, herein after referred to as CISF, as an Assistant Sub Inspector on 22.09.1997. The petitioner would submit that from the date of selection into the CISF he has been discharging his duties sincerely and in a dedicated manner, which has won several appreciations from his superiors. He was promoted as a Sub Inspector on 28.06.1982 and thereafter as an Inspector / EXE on



10.03.1988.

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3. Thereafter, by order dated 18.07.2005, the petitioner was promoted to the post of an Assistant Commandant / EXE with effect from 20.04.2005 and was placed on probation as he was working in CISF Unit, ChPT, Chennai. The petitioner by order dated 07.09.2006, was transferred to the CISF Unit, ONGC, Nazira, Assam. The petitioner submitted a representation dated 12.09.2006, to the Director General, CISF, seeking deferment of transfer for a year on account of impending marriage of his daughter.

4. In his representation, the petitioner highlighted the fact that he has completed 12 years and 8 months of service out of Home Zone and after fulfilling his domestic commitments, he was willing to serve anywhere in the country including North Eastern region. However, by order dated 29.09.2006, the Senior Commandant, CISF, CHPT, Chennai, intimated that the petitioner was to be relieved from Chennai.



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5. Since the order was passed while his representation was pending consideration, the petitioner had filed WP.No.46347 of 2006, challenging the order of transfer. Interim stay of order of transfer was issued by this Court on 22.12.2006. The petitioner on completion of his daughter's marriage, which was one of the reasons for seeking deferment of transfer, the petitioner instructed his counsel to withdraw the writ petition and the same was withdrawn and the petitioner had joined the CISF Unit, ONGC, Nazira, Assam on 20.03.2007.

6. Thereafter, the petitioner was served with a charge memo dated 01.05.2007, under Rule 16 of CCS (CCA) Rules, 1965, alleging that the petitioner had disobeyed the orders of the Commandant to report for duty at Assam.

7. A detailed explanation was given by the petitioner, despite which he was awarded punishment of withholding of pay by one stage for a period of 3 years without cumulative effect and not adversely affecting his pension by an order dated 26.06.2008. After his



retirement, the same was restored.

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8. The petitioner would submit that despite performing his duties with diligence and dedication as an Assistant Commandant, his probation was extended by 6 months on four successive occasions and finally by order dated 17.07.2009, he was reverted back to the post of an Inspector / EXE on the ground that his services were not found satisfactory during the period of probation, which is clearly arbitrary and unreasonable considering the fact that the petitioner did not get any adverse remarks in his ACR for extended period of probation. On the contrary, he was graded '*good*'.

9. The petitioner submitted his representation dated 18.08.2008, to the 2nd respondents pointing out specific shortcomings on the grounds for finding his performance to be unsatisfactory and that these shortcomings have never been communicated to him. In fact, the Unit Commandant by letter dated 11.07.2008, had appreciated his hard work. However, he has received a reply dated 07.10.2008, from the 2nd respondents who has simply stated that taking into account the overall

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performances, the period of probation had been extended. The issue raised by the petitioner in his representation was not addressed.

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10. The petitioner had made several representations against the reversion. However, he was not addressed either with a response or cancellation of the said order. Therefore, the petitioner had filed WP.No.1557 of 2011 before this Court, calling for the records relating to the order dated 17.07.2009 and quash the same and consequently directing the respondents to confirm his services in the post of an Assistant Commandant from the date of his original promotion to the post with all consequential benefits. This writ petition was allowed by order dated 01.10.2012 and this Court directed the respondents to confirm services of the petitioner in the post of an Assistant Commandant from the date of his original promotion, namely, 20.05.2005, with all consequential benefits including re-fixation of his pay and pension and other allowances.

11. The writ appeal filed by the respondents challenge the order passed in WP.No.1557 of 2011 was dismissed by judgement dated



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16.12.2016. Thereafter, by order dated 22.02.2017, the order of reversion dated 17.07.2009 was canceled and probation period was declared as completed on 19.04.2007. However, the petitioner was not granted a Senior Time Scale with effect from 20.04.2009, which is a consequential benefit as contemplated in the order passed in WP.No.1557 of 2011. Once again the petitioner had made several representations and ultimately his request was rejected vide the impugned order.

12. Challenging the same, the petitioner is before this Court.

13. A Counter affidavit has been filed by the respondents *inter alia* denying the claim of the petitioner. It is their contention that the petitioner was awarded a penalty of withholding of one increment for a period of one year without cumulative effect by order dated 31.03.1993 by the Group Commandant Madras, for failing to inform an incident that took place at Mangalore on 20th, 22nd and 23rd of May 1992.



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14. The respondents would submit that the petitioner was placed on probation initially for a period of 2 years from the date of assumption of charge for the post of Assistant Commandant / EXE as per instructions contained in the Recruitment Rules for the post of Assistant Commandant / EXE. The probation period was completed on 19.04.2007. However, the probation was extended on 4 occasions by the Departmental Promotion Committee (DPC) in their meeting on account of his unsatisfactory performance during the probation / extended period of probation.

15. It is the contention of the respondents that every time the probation period was extended, the petitioner was advised to improve his performance. The respondents would admit the receipt of the representation dated 18.08.2008, by the petitioner questioning the extension of probation. The respondents would submit that the petitioner's representation was considered and a reply dated 07.10.2008 was issued to him. The last spell of the petitioner's extended period of probation was to end on 19.04.2009. His case was considered in the



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DPC meeting held on 26.05.2009 at the CISF Headquarters and the committee recommended that he be reverted back on account of his unsatisfactory performance during the probation / extended period of probation.

16. It is the further submission of the respondents that the petitioner was awarded yet another penalty on 26.06.2008, i.e., reduction of pay by one stage in time scale of pay for a period of 3 years without cumulative effect and not adversely affecting his pension. This penalty was imposed on account of his failing to comply with the orders passed by superior authority and acting in a manner unbecoming an officer of his status.

17. The respondents would submit that the petitioner had submitted an application for Voluntary Retirement Scheme on 26.08.2009, seeking to be relieved with effect from 30.09.2009. The application was accepted by the competent authority and the petitioner was permitted to retire on VRS from the service with effect from 01.10.2009.

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18. The respondents would admit that pursuant to the orders passed by this Court in WP.No.1557 of 2011, they had complied with the orders and confirmed the petitioner in the rank of Assistant Commandant / EXE with effect from 20.04.2007.

19. The respondents would further submit that on the completion of his probation, the petitioner was due for grant of Senior Time Scale on 20.04.2009 i.e., after completion of 4 years of service as a consequential benefit in accordance with the Judgement dated 16.12.2016. The respondents would submit that the case of the petitioner for grant of Senior Time Scale was considered at the DPC held on 30.06.2017 and he was assessed as 'unfit' due to Below Bench Mark in APARs for the year 2005 – 2006 & 2006 – 2007. The petitioner's case for grant of Senior Time Scale was not considered in the subsequent DPCs since the petitioner proceeded for VRS with effect from 01.10.2009.



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20. The respondents would further contend that DoP & T OM dated 13.04.2010 stipulates that the ACRs with below bench mark grading for representation by the officer reported upon before placing in DPC applies to “future DPC” only. The petitioner was due for grant of STS on 20.04.2009 i.e., after completion of 4 years of service. The due date for the grant of Senior Time Scale to the petitioner falls prior to the issue of DoP & T OM dated 13.04.2010.

21. Hence, the communication of the below bench mark in APARs was not required to be communicated to him. The respondents had set out the guidelines for grant of Senior Time Scale in their counter as follows:

(a)Senior Time Scale is granted after 4 years of regular service in the rank as per instructions contained in a letter dated 06.05.2002.

(b)The officer to whom Senior Time Scale is granted should be in medical category SHAPE – I.

(c)The bench mark for grant of Senior Time Scale is



good.

(d) The APARs for preceeding 5 years including APAR of the latest year should be taken into account for grant of Senior Time Scale.

(e) Three out of five APARs should be bench marked.

(f) The officer to whom the Senior Time Scale is to be granted should be free from Departmental Enquiry / Vigilance / Sexual Harassment angle.

22. The respondents would contend that the petitioner's request for grant of Senior Time Scale was considered by DPC held on 30.06.2017 and the DPC assessed him as 'unfit' for the years 2005 – 2006 & 2006 – 2007. Therefore, the respondents contention is that since the petitioner was below bench mark for two APARs out of 4 APARs from the date of his taking charge as an Assistant Commandant, the impugned order cannot be found faulted. Accordingly, this writ petition should be dismissed.



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23. Heard the learned counsels on either side and perused the records.

24. The issue which requires consideration of this Court is whether the order denying Senior Time Scale to the petitioner on the ground that the bench mark grading for the years 2005 – 2006 & 2006 – 2007 was below as per the guidelines of the DoP & T OM dated 13.04.2010 is right.

25. The documents that have been submitted along with the writ petition would indicate that the petitioner had been promoted to the post of AC/ EXE on 18.07.2005 for a probation period of 2 years. The petitioners probation was to be declared on 17.07.2007. However, the probation was extended 4 times for the period of 6 months and ultimately by order dated 17.07.2009, his probation was not declared and he was reverted back to the post of Inspector / EXE on the ground that his services were not found satisfactory. This order came to be challenged in WP.No.1557 of 2011, before this Court and by order

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dated 01.10.2012, this Court after observing that the petitioner's Annual Confidential Report describing his work to be good had held as follows:

“33.Thus the petitioner had served in the promoted post for a continuous period of 4 years and 2 months from 20.05.2005 till 17.07.2009. The screening committee that recommended his termination of probation actually met on 26.05.2009 and the order of termination of probation was issued on 17.07.2009. But the last of the Annual Confidential Reports of the petitioner relates to the period 01.04.2009 to 28.07.2009. It means that on the one hand, the Screening Committee come to the conclusion on 26.05.2009 that the performance of the petitioner was unsatisfactory, but the reporting and reviewing authorities who penned the ACR found his performance to be good during the very same period 01.04.2009 to 28.07.2009.

34.I do not know on what basis the Screening Committee concluded that his performance was



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unsatisfactory. If at all anyone could have informed the Screening Committee, of the unsuitability of the petitioner to have his probation declared, it is only the reporting officer or the reviewing officer. These officers could not have taken contradictory views, one for the purpose of ACR and another for the purpose of Screening Committee. If they had done so, it would only be unfair and arbitrary. If the Screening Committee had arrived at their conclusion on the basis of any other material, then such material is in conflict with the views of the reporting and reviewing officers. No such material is also placed before me. Therefore, it is clear that the impugned order is legally unsustainable and cannot stand in the light of the Annual Confidential Report of the petitioner. Hence, the petitioner is entitled to the reliefs prayed for.”

26. Ultimately, the learned Judge passed the following order:

“35.In view of the above, the writ petition is allowed, the impugned order is set aside and the



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respondents are directed to confirm the services of the petitioner in the post of Assistant Commandant from the date of his original promotion namely, 20.05.2005, with all consequential benefits including re-fixation of his pay and pension on the basis of the pay he would have notionally drawn in the said post by payment of all arrears of pay, pension and other allowances and benefits within a period of 3 months from the date of receipt of a copy of this order. No costs”.

27. The learned Judge made it clear that the petitioner would be entitled to all the consequential benefits and Senior Time Scale is one such consequential benefit that flows to the petitioner. The petitioner's case has not been considered on the ground that for the period 2005 – 2006 & 2006 – 2007, he had got below bench mark in APARs. The petitioner has been graded average for said period since he had been visited with punishment of withholding of pay by one stage for a period of 3 years without cumulative effect and not affecting his pension. This punishment was imposed by order dated 26.06.2008 based on the

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charge sheet issued on 01.05.2007. This matter related to the petitioner not taking charge at the transferred station.

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28. It appears that subsequently adverse remarks against him had been expunged for the period of 2005 – 2006. Once the adverse remarks are expunged his remarks would be good. Further, the respondents have not taken into consideration the bench mark for the period 2008 – 2009 as the petitioner had retired only in April 2009. For the period 2008 – 2009, the order in WP.No.1557 of 2011 clearly holds that the petitioner bench mark is good. The petitioner had been graded good for the year 2007 – 2008. Since adverse remarks against him for the year 2005 – 2006 were expunged his grading would be good. Therefore, the petitioner has three good gradings and one average.

29. Even in the counter affidavit filed by the respondents, wherein the guidelines had been set out, it is stated that for grant of Senior Time Scale three out of five APARs should be bench mark. If three is bench mark the petitioner would be entitled to Senior Time Scale.



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30. In the instant case, the petitioner has three bench mark and one average. The petitioner has also put in 4 years regular service in the said post. Therefore, the denial of Senior Time Scale to the petitioner is totally misconceived.

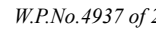
31. Accordingly, the writ petition is allowed. The respondents are directed to grant Senior Time Scale to the petitioner w.e.f., 20.04.2009 with all consequential benefits, including arrears of pay and allowances and re-fixation of pension and arrears of pension with interest at 12% per annum for the period of delay, within a period of 8 weeks from the date of receipt of a copy of this order. No costs.

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Internet : Yes/No

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