



W.P. No.7834 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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<i>Reserved on</i>	<i>18.02.2025</i>
<i>Pronounced on</i>	<i>22.04.2025</i>

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.7834 of 2019

M.Viswanathan
(Constable, Railway Protection Force)
S/o. P.K.Mayankutty,
Pangichan House, Manthakkad,
Malampuzha (PO) Palakkad,
Kerala – 678 651.

/vs/

...

Petitioner

1. The General Manager,
Southern Railway,
Park Town, Chennai – 3.
2. The Chief Security Commissioner,
Railway Protection Force,
Southern Railway,
Park Town, Chennai – 600 003.
3. The Divisional Security Commandant,
Railway Protection Force,
Divisional Office, Salem Division,
Salem.

... Respondents



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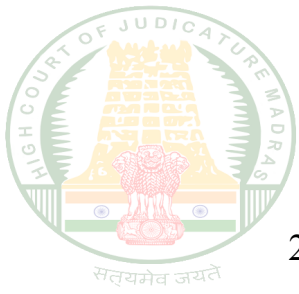
Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified mandamus to call for the records relating to the order of the third respondent made in No.SA/XP.227/DAR/Misc/18 dated 19.04.2018 to quash the same and to consequently direct the respondents to restore the pay of the petitioner in the Grade Pay Rs.2800/- on expiry of the penalty and to revise the pay by regularizing the period between 15.02.2012 and 23.02.2013 in terms of Rule 1343 sub-rules (4), (6) & (7) of the Indian Railways Establishment Code.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.M.T.Arunan
Standing Counsel

ORDER

This writ petition has been filed challenging the order of the third respondent made in No.SA/XP.227/DAR/Misc/18 dated 19.04.2018 and consequently to direct the respondents to restore the pay of the petitioner in the Grade Pay of Rs.2,800/- on the expiry of the penalty and to revise the pay by regularizing the period between 15.02.2012 and 23.02.2013 in terms of Rule 1343 sub-rules (4), (6) & (7) of the Indian Railways Establishment Code.

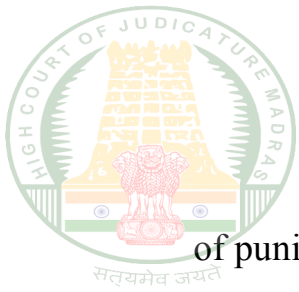


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2. The petitioner was working as a Constable in Railway Protection Force (in short 'RPF') and was suspended on 17.05.2011 on the charges of misconduct. The disciplinary proceedings initiated against the petitioner had culminated into the punishment of dismissal from service. On the appeal preferred by the petitioner, the punishment was modified to compulsory retirement and on the revision filed by the petitioner, the above punishment was reduced and modified to reduction in grade pay from Rs.2,400/- to Rs.2,000/- for three years with cumulative effect and the suspension period was treated as leave without pay. The period during which the petitioner was out of service due to removal has been ordered as not countable for service benefits. Subsequently, the petitioner was reinstated into service. Now the petitioner claims that the punishment has been awarded against him in violation of Railway Board Orders and Circulars.

3. Mr.L.Chandrakumar, the learned counsel for the petitioner, submitted that even after completion of punishment period the age of the petitioner was not restored and accordingly he is entitled to restoration of grade pay at Rs.2,800/-; as per the Railway Board Orders on the completion



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of punishment, the grade pay should be restored but in the petitioner's case it has not been restored; similarly placed persons have been given with the benefit of restoration in terms of the Railway Board Orders and for the petitioner alone the said benefit was not given; the Railway Board Circulars prohibit cumulative punishments but for the petitioner the said Rule was not followed; the period of reinstatement should be treated as regular service which would entitle the petitioner the back pay and other benefits.

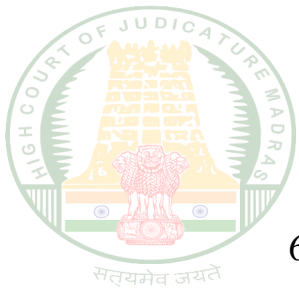
4. Mr.M.T.Arunan, the learned Standing Counsel for the respondents, submitted that the service of the petitioner is governed under RPF Rules, 1987 and not under Railway Servants (Discipline and Appeal) Rules; the RPF Rules very much includes the reduction to a lower grade in the existing scale of pay as one of the minor punishments and the punishment will be operated from the date on which it is given effect to the completion of the number of years as stated in the punishment order; the petitioner had assaulted his superior officer while he was on duty and it is a serious misconduct in uniformed service; the administration has leniently viewed the petitioner's revision petition and had modified the penalty and thereby



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allowed the petitioner to continue in service; the period under which the petitioner was suspended was rightly ordered as “*leave without pay*” and the intervening period shall not be counted for any service benefits.

5. It is a strange case where the petitioner seeks the relief amounting to setting aside the punishment without having chosen to challenge the punishment order at any point of time. The petitioner has been given with the charges on the allegation that he had assaulted his superior officers while he was on duty. After the charges against the petitioner was proved, the Disciplinary Authority viewed the matter very seriously considering the disciplined nature of uniformed service and had chosen to impose a major punishment of dismissal from service. On the appeal preferred by the petitioner the Appellate Authority has chosen to modify the punishment to compulsory retirement. However, the Revisional Authority has reduced the punishment as a minor punishment and imposed a reduction in grade pay. In view of the same the petitioner got reinstated into service.

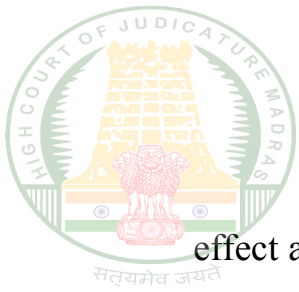


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6. In the order of the Revisional Authority it has been made clear that the punishment of reduction of grade pay shall be in force for a period of three years with cumulative effect and the period of suspension from 14.05.2011 to 17.06.2011 has been treated as “*Leave Without Pay (LWP)*” and the period of 'out of service' due to removal has been treated as *dies-non* (not counted for service benefits). The petitioner claims parity with the Railway employees who are governed under the Railway Board Orders. Just because the RPF officers are housed in the Railway Stations, the petitioner cannot presume that they are governed under the Railway Servants (Discipline and Appeal) Rules.

7. As the RPF is an uniformed service, it has got its own rules. The RPF Rules very much contemplate punishments including a reduction of lower stage in the existing scale of pay as seen under Rule 148.3. Apart from the major punishments enumerated under Rule 148.2 there are minor punishments listed under Rule 148.3 as well. Under Rule 157.2 of RPF Rules, the order reducing to a lower rank, grade or a lower stage in the scale of pay shall specify the date from which the punishment will be taken into



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effect and the terms of the years for which it will be in force. For the sake of

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clarity the above rules are extracted hereunder:

“ 148.2 Major punishments :

- (a) Dismissal from service (which shall ordinarily be a disqualification for future employment under the Government).*
- (b) Removal from service (which shall not be a disqualification for future employment under the Government).*
- (c) Compulsory retirement from service.*
- (d) Reduction in rank or grade.*

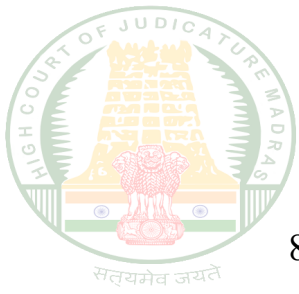
148.3 Minor punishments :

- (a) Reduction to a lower stage in the existing scale of pay.*
- (b) Withholding of next increment with or without corresponding postponement of subsequent increments.*
- (c) Withholding of promotion for a specified period.*
- (d) Removal from any office of distinction or deprivation of any special emoluments.*
- (e) Censure.*

157.2 When reduction to a lower rank, grade or a lower stage in the scale of pay is ordered, the order shall also specify-

- (i) the date from which it will take effect and the period (in terms of years and months) for which the punishment shall be operative;*
- (ii) the stage in the scale of pay (in terms of rupees) to which the enrolled member of the Force is reduced; and*
- (iii) the extent (in terms of years and months), if any, to which the punishment referred to at (i) above shall be with or without cumulative effect:*

Provided that when the punishment of reduction to a lower stage in the scale of pay is imposed during the currency of reduction in rank, the disciplinary authority shall clearly indicate in the punishment order whether the two punishments shall run concurrently or the subsequent punishment shall be implemented after the expiry of the first punishment.”



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8. In the order passed by the Revisional Authority the period of suspension has been ordered to be treated as “*Leave Without Pay*” and the intervening period has been ordered to be treated as *Dies-non* (not counted for service benefits). In such case, the petitioner having accepted the said punishment and had chosen to avail the benefit of reinstatement, now cannot turn around and claim as though he has not been awarded with any punishment.

9. As the petitioner has filed this writ petition without any basis and the punishment order has already been come into effect, the relief sought by the petitioner in this writ petition cannot be conceded.

10. In view of the above observation, the writ petition is dismissed.

No costs.

22.04.2025

Index: Yes / No
Speaking order / Non-speaking order
Netural Citation Case : Yes / No
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R.N.MANJULA ,J.

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Pre-delivery order made in
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