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WP No. 22716 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-03-2025

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

WP No. 22716 of 2018

AND

WP NO. 22717 OF 2018

1. Rama Prabhu,
No. 449/ 2, TNHB Flats, 7th Main
Road, Shanthi Colony, Anna Nagar,
Chennai - 40

Petitioner(s)

Vs

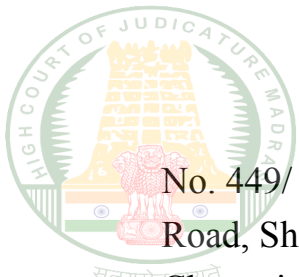
1. The General Manager
Central Bank Of India, Human
Resources Development Dept.,
Industrial Relations amp Policy Wing,
Central Off. Chander Mukhi, Nariman
Point, Mumbai - 21

2. The Assistant General Manager
Central Bank Of India, Zonal Office,
48/ 49, Montieth Road, Egmore,
Chennai - 8

Respondent(s)

WP No. 22717 of 2018

1. Rama Prabhu,



No. 449/ 2, TNHB Flats, 7th Main
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Petitioner(s)

Vs

1. The General Manager
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Respondent(s)

WP No. 22716 of 2018

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records pertaining to the order passed by the 1st respondent in CO-HRD-IRP-ASN-2018/ 19-168 dated 18.08.2018 and the Order passed by the 2nd respondent in ZO/ CHEN/ HRD/ 2018-19/ 517 dated 10.08.2018 quash the same and consequently direct the respondents to promote the petitioner from MMG Scale - II to MMG Scale-III notionally with effect from May 2014 and actually from 07.08.2015 and to pay all consequential monetary benefits from 07.08.2015 and to restore the increments deducted from his salary from November 2015

WP No. 22717 of 2018

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of declaration to declare that Clause 15.2 of the Career Path-



Cum-Promotion Policy for Specialist Category Officers with amendments dated 15.03.2014 of the Respondents Bank in so far as the Persons with Disability including the petitioner as null and void.

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WP No. 22716 of 2018

For Petitioner(s): M/s.R.Diwakaran

For Respondent(s): M/s. B.Raghavan

For M/s.T.S.Gopalan And Co,

For R2

WP No. 22717 of 2018

For Petitioner(s): M/s.D.Geetha

For Respondent(s): M/s. B.Raghavan

For M/s.T.S.Gopalan And Co,

For R2

COMMON ORDER

These writ petitions have been filed to quash the order passed by the 1st respondent in CO-HRD-IRP-ASN-2018/ 19-168 dated 18.08.2018 and the Order passed by the 2nd respondent in ZO/ CHEN/ HRD/ 2018-19/ 517 dated 10.08.2018 and consequently to direct the respondents to promote the petitioner from MMG Scale - II to MMG Scale- III notionally with effect from May 2014 and actually from 07.08.2015 and to pay all consequential monetary benefits from 07.08.2015 and to restore the increments deducted from his salary from November 2015 and to declare that Clause 15.2 of the Career Path-Cum-Promotion Policy for Specialist Category Officers with amendments dated 15.03.2014 as null and void.



2. The petitioner who is suffering 80% locomotor disability has been promoted to the post of Scale – III during the year 2014 and he was transferred to Aurangabad Region, Pune and in view of that he was relieved from Chennai Zonal office. But the petitioner has got grievance that the above transfer order was in violation of norms of transfer especially Clause 1.1.2, 1.2.2 and 1.2.3 of Transfer Rules. However, the petitioner has been given with the same promotion in the year 2016 and he has been placed in the available vacancy in the Chennai Zonal Office and the petitioner had also accepted the same.

3. Now the petitioner claims that he is entitled to the promotion with monetary and service benefit out of promotion by considering the date of promotion from the year 2014. The petitioner claims that he would have been eligible to Scale – IV from Scale – III as he would have acquired the eligible three years in Scale III Officer.

4. As per the direction of this Court without touching the merits of the matter, the petitioner appears to have been participated in the selection process for Scale IV and the result is ordered to have been kept in a sealed cover. The other writ petition is also pending.

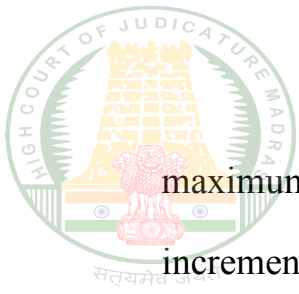
5. The learned counsel for the petitioner submitted that as per Clause 1.1.2 of Transfer Norms, the physically handicapped Officer may not be transferred even on promotion if a vacancy exists in the same station and even if



there is no vacancy and his transfer is inevitable on promotion, he should be kept nearest to his original posting and he may not be transferred to a far or remote place. As per Clause 1.2.2 of Transfer Norms, the promotion to Scale II – III is subject to the availability of the vacancies and the physically handicapped promotee officers may be retained within the station / region / zone in the event of promotion.

5.1 Even in the case of promotion from Scale II and Scale III under the written Test Channel, the promotee officer shall be retained in the zone as stated under Clause 1.2.2 subject to the availability of the vacancy and only if vacancy is not available in the same zone, he / she may be posted to any other zone where vacancy remains unfilled. So it is claimed by the learned counsel for the petitioner that in all probabilities the petitioner ought to have been retained in the same station / region / zone but the respondents have violated the said norms and hence he is entitled to the Service Benefits on and from the date during which he has been originally given promotion to Scale III in the year 2014.

6. Mr.B.Raghavan, the learned counsel for the respondents, submitted that the above Clauses are applicable only if the vacancies are available. At the time when the petitioner was promoted to Scale III, there was no vacancies and hence it was inevitable to transfer him to other region. It is further submitted that as per Regulation 5(1)(b) of Officers Service Regulation, when the officers who are promoted from Scale I and Scale II, one year after reaching the



maximum pay scale in their respective scales, shall be granted further increments including stagnation increments to the next higher scale. If the officers refuse to accept promotion offered to him, he shall be debarred for a period of one year under the channel of promotion and as per Rule 5.13 (Clause 19) the increments granted under Regulation 5 (1)(b) shall be forfeited.

7. The fact that the petitioner has been given with promotion to Scale III during the year 2014 is not in dispute. The only claim made by the petitioner is that he is entitled to be retained in Chennai Zonal Office itself where he was working in Scale II.

8. The fact that the petitioner is a physically challenged person with 80% locomotive disability is not denied by the respondents. But the only contention made by the respondents is that the petitioner could have been accommodated in Chennai Zonal Office itself even on promotion, provided the vacancy is available. Since the vacancies were not available the petitioner cannot be accommodated in Chennai and it necessitated to transfer him to Aurangabad, Pune. The petitioner could have joined in Aurangabad, Pune and renewed his request to repost him in Chennai Zonal Office considering his physical disability and citing the Transfer Rules in favour of physically disabled persons.

9. Even the Rules does not mandate to give such a concession but it only stipulates that retaining of such officers in the same zone can be considered in



the event of any vacancies in the said cadre is available. Hence, the petitioner has not been granted with any order to retain him in the Chennai Zonal Office.

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10. The petitioner has simply accepted the same and thereafter, he was promoted to the same scale in the year 2016. At that point of time there was vacancy in the Chennai Zonal Officer and he was retained in the same zone. The petitioner did not challenge his earlier order transferring him to Pune by claiming that there was vacancy available in Chennai Zonal Office. The petitioner had further accepted the next offer for promotion to Scale III in the year 2016 and continued to enjoy his retention at Chennai Zonal Office. This is probably because the petitioner has understood the fact that he had been retained in Chennai Zonal Office in the year 2016, as there was vacancy available at that point of time. Even though there are Rules favourable to the physically challenged persons considering their special difficulties, the same cannot be enforced when there was no vacancies available.

11. The petitioner, by not opting to accept the promotional to Aurangabad Region, had lost the benefit of two increments granted to him at the higher level. The Rules also prescribes that an Officer is entitled to get increments only if he prefers to accept the promotion. As the petitioner did not prefer to accept the promotion which was offered to him in the year 2015, the increments have been withdrawn and it has been granted to him again, after he was promoted in the year 2016.



12. Since the petitioner knowingly declined the promotion offered to him in the year 2015, due to the inconvenience felt by him to join at Auragabad Region, he cannot now claim that his earlier promotion should be construed as a promotion which he had accepted. The petitioner had really accepted the promotion only in the year 2016 and hence he is not entitled to claim the benefit of the promotion to the Scale III, from the year 2014-2015 during which time he relinquished the same. If an Officer does not accept the promotion offered to him in any scale then, as per Rules, his next promotion process cannot be considered for one year. The Rule is equally applicable to the petitioners' case also. Only by knowing the impact of the carrier path-cum-promotion policy, the petitioner had filed another Writ Petition to declare Clause 15.2 of the Promotion Policy with its amendments dated 15.03.2014 as null and void in so far as it concerns with persons with disability including the petitioner.

13. The above Rule would read that if any specialized officer abstains from participating in the promotion process despite he has been included in the zone of consideration, without any sufficient reasons, he shall be ineligible to participate in the next level process for a period of one year. The above Rule would also say that the Officer may also be subjected to any other action. Rule 15.2.2 of the above policy would state that such an officer shall be debarred for one year for a period of one process or one year under all channels of promotion. Clause 15.2.3 would state that such an officer accepts promotion by agreeing to shoulder higher responsibilities in the officer cadre as and when



arises. So it will not be open for the petitioner to seek reversion in the erstwhile scale after having accepted such promotion.

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14. The above Clauses of Promotion Policy states that adverse consequences will follow to the officer who declines to participate in promotion process without any sufficient reasons. So it is up to the officer to give any request justifying his non-participation in the promotion process if he had found it is inconvenient for him. In the instant case, the petitioner had voluntarily participated in the promotion process in the year 2014 and he had also been given with the promotion. But he did not accept the promotion because he found the place where he was posted was inconvenient to him. The respondent did not take any action against the petitioner.

15. The petitioner claims that the above Clauses is in violative of Article 14, 16 and 21 of the Constitution of India. The above clause does not prohibit the physically challenged officers from getting the advantage of Clause 15.1.1 by placing their request in advance on par with other officers. So I do not find any illegality in the same. So far as Clause 15.2.2 is concerned that can be rectified provided the notification is given in advance about the available vacancies for officers who are physically challenged in the event of their promotion to the next level in all the regions, in order to enable such persons to make decisions in advance and to place any request in accordance with Clause 15.2.1. So far as 15.2.3 is concerned there is no question of looking it back



because that will operate only after promotion offer is accepted.

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16. Now the petitioner claims his equal opportunity in getting promotion to the next level has been affected and there is no equitable provision available and Clause 15.2. is adverse to the equitable measures that have to be exercised for persons who are physically challenged. The holistic reading of the Promotion Policy would only show that it does not discriminate the physically challenged persons. In fact there are special provisions provided for physically challenged persons under the Norms for Transfer. If there are any vacancies irrespective of the fact whether it is reserved for physically challenged person or not, the physically challenged persons ought to have been posted there.

17. If the Rules mandate that whenever a person refuses to accept promotion, his case cannot be considered for one year, then it has to be applied to all such specialized category of officers. The petitioner could have avoided the difficulty of debar for one year process of promotion had he verified the availability in Scale III vacancy in Chennai Region and thereafter participated in the promotion process. If the petitioner had verified the availability of vacancy in Chennai Region itself and known that there was no vacancy at the relevant point of time, he could have given sufficient reasons for not participating process in the year 2015.



18. When the Rules have avenues to mitigate the difficulties caused to specialized category of officers, then the officers are expected to utilize the same. Having not chosen to utilize the Rules and not placing any request to postpone his promotion process to the next year in view of non-availability of vacancy, now the petitioner has filed this writ petition stating that the Rules themselves should be declared as void as against the persons with disability. I do not find any illegality or unfriendliness in Clause 15.2 of the Promotion Policy to disable the physically challenged officers from pursuing their promotional opportunities as and when they get vacancies in the local region. However, it would be appreciated if the respondents could notify the vacancies available in the Chennai Region in case any of the promotion process is inclusive of the persons who belong to physically challenged category. In such case the concerned persons can know about the availability of vacancy and place appropriate request in accordance with the Rules.

19. With the above observations, these writ petitions are disposed. No costs. Connected miscellaneous petition is closed.

27-03-2025

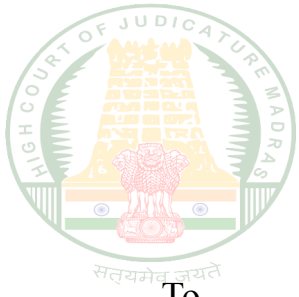
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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R.N.MANJULA J.

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