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W.P.No.23774 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2025

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.P.No.23774 of 2024

Ex-Sub, Singamala Krishna Reddy

No.JC-819494 'L'

S/o Singamala Chengal Reddy

.. Petitioner

v.

1. Union of India rep.by the Secretary
Ministry of Defence
Government of India
South Block
New Delhi 110 011

2. The Chief of Army Staff
Integrated Head Quarters of MoD (Army)
South Block
New Delhi 110 011

3. The Provost Marshal
Provost Marshal's Office AG's Branch
Integrated Head Quarters of MoD (Army)
DHQ Post
New Delhi 110 011



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4. The Office in Charge
Sena Police Corps, Abhilekh Karyalaya
Corps of Military Police Records
Pin-900493 C/o-56 APO

5. The Commanding Officer
No.54 Infantry Division Provost Unit
Pin-907854 C/o 56 APO

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 17.03.2023 in O.A.No.183 of 2017 passed by the Hon'ble Armed Forces Tribunal, Regional Bench, Chennai and quash the same and direct the respondents to produce records with respect to 'DPC Proceedings' dated 03.11.2015 held for selection / promotion to 'Subedar Major' rank along with merit list and the Selection Process for award of 'Honorary Commission' on the occasion of 'Republic Day, 2015' (26.01.2015) for judicial scrutiny, consequently direct the respondents to consider promotion of the petitioner to the rank of 'Subedar Major' or 'Honorary Lieutenant' on active service w.e.f. respective effective date with all consequential benefits.

For Petitioner :: Mr.M.K.Sikdar

For Respondents :: Mr.C.Kulanthaivel
Senior Panel Counsel

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

The writ on hand has been instituted challenging the order dated 17.03.2023 passed in O.A.No.183 of 2017 on the file of the Armed Forces



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Tribunal, Regional Bench at Chennai.

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2. The petitioner was enrolled in Indian Army on 15.07.1986 and was promoted to the rank of Subedar on 01.12.2013. The petitioner states that he was deployed on UN mission as JCO and was in Serial No.1 in the merit list of Promotion Board for promotion to the rank of Subedar Major. But he was not granted promotion as per the seniority and thus the petitioner preferred a statutory complaint on 29.04.2016. The statutory complaint was rejected in proceeding dated 16.12.2016. The said proceedings came to be challenged in the original application before the Armed Forces Tribunal.

3. The learned counsel for petitioner would submit that as per the regulations, the statutory complaint should be disposed of within a period of sixty days. However, in the present case, the order of rejection impugned in the original application was passed beyond the period of sixty days and therefore it is liable to be set aside. Further it is contended that juniors of the writ petitioner were promoted to the rank of Subedar Major and the case of the petitioner was not considered without any valid reason. Thus the



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petitioner is entitled for retrospective promotion on par with his junior and monetary benefits are to be paid, since the petitioner was discharged from service on 31.07.2016.

4. The learned Senior Panel Counsel appearing on behalf of the respondents would oppose by stating that the Departmental Promotion Committee considered the case of the petitioner and found that vacancies were not available during the relevant point of time. Secondly, the petitioner was considered thrice for Honorary Commission, but did not get selected due to relative merit. Therefore the case of the petitioner was considered in accordance with the regulations and the Tribunal rightly rejected the application.

5. Fact remains that the petitioner was in Serial No.1 for promotion to the rank of Subedar Major. However, the said fact was disputed by the respondents.

6. The legal principles governing the matter of promotion are that



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promotion per se cannot be claimed as an absolute right by any employee.

However, consideration for promotion is a fundamental right. All promotions are to be granted strictly in accordance with the regulations applicable. While undertaking the process of promotion, the Departmental Promotion Committee has to ensure that all the eligible persons in the order of seniority are considered and accordingly draw a panel for grant of promotion to the higher post.

7. In the context of the legal principles, the case of the petitioner reveals that he was due for promotion in the year 2015 to the rank of Subedar Major. But no vacancy in the rank of Subedar Major was available and therefore he was not considered for promotion at that point of time. On earlier occasion, the petitioner was considered thrice for Honorary Commission, but did not get selected due to relative merit. The petitioner was unable to establish that any of his junior was promoted over and above his seniority or in violation of regulations applicable for promotion. In the absence of any proof to that effect, the relief as such sought for by the petitioner was rejected rightfully by the Armed Forces Tribunal. The



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petitioner was discharged from service on 31.07.2016 and the application was filed after his retirement. However, the statutory complaint was filed during the period when he was in service. Mere delayed disposal of the statutory complaint would not provide a ground to seek the relief of promotion with retrospective effect. The petitioner has not established that the ground of delay would entitle him to the relief of promotion. Thus, in any angle, the case of the petitioner is unable to be considered and more so, the Tribunal has proceeded with the order in the right perspective and in consonance with the legal principles established on promotion. Accordingly, the order dated 17.03.2023 passed by the Armed Forces Tribunal in O.A.No.183 of 2017 stands confirmed and the writ petition is dismissed. No costs.

Index : yes
Neutral citation : yes
SS

(S.M.S.,J.) (K.R.S.,J.)
06.02.2025

To

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Ministry of Defence
South Block, New Delhi 110 011



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