

C.V. Joseph Vs. the Senior Commandant

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Court : Kerala

Decided On : Jan-24-2014

Judge : Honourable Mr.Justice C.T.Ravikumar

Appellant : C.V. Joseph

Respondent : The Senior Commandant

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR FRIDAY, THE 24TH DAY OF JANUARY 2014 4TH MAGHA, 1935 WP(C).No. 23497 of 2012 (J) ----- PETITIONER: ----- C.V. JOSEPH AGED 59 YEARS CONSTABLE/GENERAL DUTY NO.844509575 CENTRAL INDUSTRIAL SECURITY FORCE UNIT COCHIN PORT TRUST, COCHIN-682003. BY ADV. SRI.S.VISHNU RESPONDENTS: ----- 1. THE SENIOR COMMANDANT CENTRAL INDUSTRIAL SECURITY FORCE UNIT, COCHIN PORT TRUST, COCHIN-682003.

2. THE INSPECTOR GENERAL CENTRAL INDUSTRIAL SECURITY FORCE, SOUTH SECTOR CHENNAI-600009.

3. THE DIRECTOR GENERAL CENTRAL INDUSTRIAL SECURITY FORCE HEADQUARTERS BLOCK NO.13, C.G.O. COMPLEX, LODHI ROAD NEW DELHI-3. ADDL.4. UNION OF INDIA, REPRESENTED BY THE SECRETARY

MINISTRY OF HOME AFFAIRS, NORTH BLOCK, CENTRAL SECRETARIAT, NEW DELHI- 110 001. " 5. THE SECRETARY, MINISTRY OF PERSONNEL PUBLIC GRIEVANCES AND PENSIONS (DEPARTMENT OF PERSONNEL & TRAINING) NORTH BLOCK, NEW DELHI- 110001. (ADDL.R4 & R5 ARE IMPEADED AS PER

ORDER

DATED 31.01.2013 IN I.A.NO.1254/13) BY ADV. SRI.P.PARAMESWARAN NAIR, ASG OF INDIA THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24.01.2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 23497 of 2012 (J) APPENDIX PETITIONER'(S) EXHIBITS EXT.P1:TRUE COPY OF THE MACP SCHEME ISSUED BY THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSION VIDE O.M.NO.5034/3/2008-ESTT(D) DATED 19.5/2009. EXT.P2:TRUE COPY OF NO.E-31014/29/SCCL(B)/AD.I/ACP/2001/2007 DATED 22.2/2001 ISSUED BY THE COMMANDANT, CISF UNIT, SCCL BELLAMPALLI. EXT.P3:TRUE COPY OF THE MEMORANDUM NO.E-31014/MACP/VSSC/DOC/2009/ 7234 DATED 14.8/2009 ISSUED BY THE COMMANDANT, CISF UNIT, VSSC, THUMBA. EXT.P4: TRUE COPY OF THE

ORDER

NO.E-31014/CISF/VSSC/MACP/2009-9479 DATED 26.10/2009 ISSUED BY THE COMMANDANT, CISF UNIT, VSSC, THUMBA. EXT.P5: A TRUE COPY OF THE

ORDER

NO.E-31014/CISF/VSSC/MACP/2009- 11644 DATED 28.12/2009 ISSUED BY THE COMMANDANT, CISF UNIT, VSSC, THUMBA. EXT.P6: TRUE COPY OF THE REPRESENTATION DATED 20.8/2012 SUBMITTED TO THE 1ST RESPONDENT. EXT.P7: TRUE COPY OF THE COMMUNICATION NO.E-42099/F/CPT/AD.1/12/2468 DATED 28.8/2012 ISSUED BY THE 1ST RESPONDENT. EXT.P8: TRUE COPY OF THE CIRCULAR NO.1/2014 DATED 8.1.2014 ISSUED BY THE DIRECTOR GENERAL, CISF. RESPONDENTS' EXHIBITS: EXT.R1(a): TRUE COPY OF THE LETTER DATED 23.11.2009. // TRUE COPY // TKS P.S. TO JUDGE C.T.RAVIKUMAR, J.

JUDGMENT

The petitioner was a Constable in the Central Industrial Security Force. The grievance of the petitioner is regarding the refusal to grant him the third financial upgradation under the Modified Assured Career Progression Scheme viz., Ext.P1, with effect from 1.9.2008. According to the petitioner, he was entitled to get the third financial upgradation under the Modified Assured Career Progression Scheme under Ext.P1 with effect from 1.9.2008. However, the request of the petitioner was rejected and he was found not eligible as per Ext.P7. The petitioner was found disentitled to get the third financial upgradation owing to his failure to qualify in the Promotion Cadre Course (PCC). It is in the said circumstances that this writ petition has been filed seeking issuance of a writ of mandamus commanding the respondents to grant the petitioner the third financial upgradation under Ext.P1 scheme with effect from the eligible date and to quash Ext.P7.

2. A counter affidavit has been filed in this writ petition on behalf of the respondents. Later, the petitioner has filed I.A.No.1209 of 2014 in this writ petition and along with it Ext.P8 circular bearing No.01/2014 dated 8.1.2014 issued by the 3rd respondent was also produced. The contention of the petitioner is that in the light of Ext.P8 WP(C).No.23497/2012 2 the petitioner is entitled to get the third financial upgradation as a pass in PCC is no more remaining as a required qualification.

3. I have heard the learned counsel for the petitioner and also the learned Assistant Solicitor General appearing for the respondents.

4. It is submitted by the learned Assistant Solicitor General that the condition requiring a pass in PCC has been waived as per Ext.P8 order and therefore, pass in PCC is not at all essential for getting the third financial upgradation under Ext.P1. In the said circumstances, in the light of Ext.P8, I am inclined to set aside Ext.P7. Accordingly, Ext.P7 is set aside. This writ petition is allowed. The respondents are directed to grant the third financial upgradation under the Modified Assured Career Progression Scheme to the petitioner with effect from the

date on which he acquired the eligibility for the same. This shall be done expeditiously and in accordance with law, at any rate, within a period of three months from the date of receipt of copy of this judgment. Needless to say that the consequential benefits, if any, shall also be granted to the petitioner expeditiously.

Sd/- C.T.RAVIKUMAR Judge TKS

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