

(2015) 03 MAD CK 0153

In the Madras High Court

Case No : Writ Petition No. 1698 of 2014 and M.P. No. 1 of 2014

M. Srinivasa Rao

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 05-03-2015

Acts Referred:

Citation : (2015) 03 MAD CK 0153

Hon'ble Judges : K.K. Sasidharan, J.

Bench : Single Bench

Advocate : Ibrahim Ali for S. Mujibur Rahman, for the Appellant; A.C. Kumaragurubaran, Advocates for the Respondent

Final Decision : Dismissed

Judgement

K.K. Sasidharan, J.—The challenge in this writ petition is to the office order dated 7 May 2013 on the file of Central Industrial Security Force, Chennai Port Trust rejecting the request made by the petitioner for granting financial upgradation under Modified Assured Career Progression Scheme.

The facts:

2. The petitioner joined the Central Industrial Security Force (hereinafter referred to as "CISF") as Constable on 16 September 1989. Even though the petitioner completed twelve years of service, he was not given the benefits under Assured Career Progression Scheme(In short "ACP Scheme"). Similarly, he was not given benefits under Modified Assured Career Progression Scheme (In short "MACP Scheme") due from the year 2009. The petitioner was not given promotion on account of five minor punishments. Since financial upgradation was not given to the petitioner, he submitted a representation dated 3 April 2013. The representation was rejected by the fourth respondent on the ground that the Screening Committee declared him "not fit" for grant of benefit under MACP and promotion. The said order is under challenge in this writ petition.

Defense:

3. The fourth respondent in the counter affidavit has given details of the punishments awarded to the petitioner. According to the fourth respondent, for promotion to the post of next higher grade Departmental Promotion Committee will consider the service record of a person for the preceding five years and his/her suitability or otherwise will be assessed on the basis of the marks he/she secures out of 80. The fourth respondent contended that the person will be eligible for promotion as well as MACP only in case he/she does not have a total of five or more minor or major punishments in the last ten years. The fourth respondent justified the impugned order on the ground that the petitioner was having five punishments on his account.

Submissions:

4. The learned counsel for the petitioner contended that the punishments imposed on the petitioner were only minor punishments and as such the fourth respondent was not correct in denying the relief to him. The learned counsel has taken me through the financial upgradation scheme and the orders of punishment to show that the punishments were all minor in nature and it would not be a bar to consider the case of the petitioner for conferring the benefits under MACP Scheme.

5. The learned Central Government Standing Counsel supported the impugned order.

Analysis:

6. The Government of India consequent to the implementation of the VI Pay Commission report modified the ACP scheme with the introduction of MACP Scheme. The new scheme was implemented with effect from 1 September 2008. The scheme envisages granting of three financial upgradations to the immediate next higher grade pay in the hierarchy of pay bands and grade pay. The guidelines issued by CISF shows that the case of the employees would be considered by the Screening Committee to assess the fitness and eligibility to confer benefit.

7. The Central Industrial Security Force Head Quarters issued guidelines relating to promotion and MACP. As per the guidelines, grading would be given to the employees. The person would be declared "below average/not yet fit" in case of award of major punishment in the last five years of holding of DPC. The marks will be deducted in case of minor punishments at the rate of four marks for one punishment in the last five years, nine marks for two punishments in the last five years and 14 marks for three punishments in the last five years. The person with five or more minor punishments in the last five years will be declared as Below average/not yet fit. The fourth respondent has given the chart containing the punishments imposed on the petitioner. The disciplinary authority imposed the following punishments on the petitioner.

"(a) Censure by DC, CISF Unit, STPP Simhadri for having found absent from his

duty post at about 1355 hrs on 26.06.2006 vide Final Order No. V-15015/STPP(S)/MS/Min-12/ 2006 / 1759 dated 19.07.2006.

(b) Censure by AC, CISF Unit, STPP Simhadri for having refused the lawful orders given by SI/Exe Gabbar Singh (Shift in charge) on 7.8.2006 vide Final Order No. V- 15015/STPP(S)/MSR/Min-14/2006/2425 dated 23.09.2006.

(c) Fine equivalent to one day pay by DC, CISF Unit, STPP Simhadri for having left his duty area on 12.01.2007 vide Final Order No. V- 15015/STPP(S)/Min-04/2007/536 dated 10.03.2007.

(d) Fine equivalent to one day pay by DC, CISF Unit, STPP Simhadri for having found absent from his duty area on 7.7.2007 at about 0215 hrs vide Final Order No. V- 15015/STPP(S)/MSR/Min-16/2007/1726 dated 08.08.2007.

(e) Fine equivalent to three days pay by AC, CISF Unit, NLC Neyveli for neither attending Sainik Sammelan nor appearing before DIG/SZ Hqrs Chennai on 7.3.2009 for personal interview vide Final Order No. V-15014/CISF/AC M- IA/ Disc - Min/MSR/09-703 dated 12.06.2009."

8. The case of the petitioner was considered by the Screening Committee and having found that he was having more than five punishments over a period of five years, declared him "not yet fit". In view of the counter affidavit filed by the fourth respondent indicating the punishments awarded to the petitioner, it cannot be said that the benefits were denied without any basis.

9. The petitioner is a member of a Uniformed Force. The Head Quarters - CISF has framed guidelines for promotion as well as for grant of MACP. The Screening Committee has assessed the fitness of the petitioner for promotion as well as for financial upgradation under MACP scheme. The petitioner failed to satisfy the eligibility criteria. There is no question of sitting in appeal over the decision taken by the Screening Committee and to form a different opinion. I am therefore of the view that no interference is called for in the order passed by the fourth respondent.

10. In the upshot, I dismiss the writ petition. Consequently the connected MP is closed. No costs.