

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2015

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.NO.9866 OF 2015
AND M.P.NOS.1 AND 2 OF 2015

S.Ranganathan

.. Petitioner

Versus

1. The Principal Secretary to Government
Home (SC) Department
Fort St. George,
Chennai - 600 009.
2. The Secretary to Government
Commercial Tax and Religious Endowment
Fort St. George,
Chennai - 600 009.
3. The Inspector General of Registration
Santhome High Road,
Chennai - 600 028.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, to quash the proceedings No.6850/A5/2014 dated 23.02.2015 and also the consequential order passed by the 3rd respondent herein in proceedings No.10740/A2/2015 dated 10.03.2015 and direct the respondents to promote the petitioner to the post of Sub Registrar, Grade II.

For Petitioner : Ms.Sudharshana Sunder
For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader

O R D E R

Heard both sides. With the consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner is working as Assistant in the Commercial Tax and Registration Department. The next avenue of promotion is to the post of Sub Registrar Grade - II. He was imposed with the punishment of Censure by the first respondent vide order dated 02.07.2013 pursuant to the disciplinary proceedings initiated against him under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. In fact, the said proceedings was initiated against the petitioner as well as one Mr.Prabhakar, who was the Joint Sub Registrar in the same Department. The said Prabhakar got relieved from the Registration Department and joined as Deputy Superintendent of Police in the Tamil Nadu Police Service. In these circumstances, the petitioner was imposed with the punishment of Censure vide order dated 02.07.2013 in G.O.(2D) No.256, Home (SC) Department, dated 02.07.2013 by the first respondent.

3.Earlier, in the panel prepared for promotion to the post of Sub Registrar Grade - II, the petitioner was not included due to the pendency of the disciplinary proceedings initiated under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. This time also, he was not included in the panel dated 23.02.2015 on the ground that the punishment is in currency.

4.It is admitted that the crucial date for preparation of panel for promotion to the post of Sub-Registrar Grade - II for the year 2014-2015 is 01.04.2014. The petitioner was imposed with the punishment of Censure by order dated 02.07.2013 of the first respondent for the occurrence that took place in the year 2004. As stated above, disciplinary proceedings were initiated against the petitioner, who is an Assistant and also against the Joint Sub Registrar.

5.As per the order passed in G.O.Ms.No.22, Personnel and Administrative Reforms (S) Department, dated 24.02.2014, the punishment of Censure would operate as an embargo, if the same was imposed within a period of one year from the crucial date for preparation of panel. However, it could not be held against the Government Servant for the purpose of promotion, if the crucial date falls within one year from the date of punishment of Censure, if the delinquency in respect of which such punishment was imposed had occurred prior to five years preceding to the crucial date.

6.In this regard, the relevant portion in G.O.Ms.No.22 is extracted hereunder:

"(1-III) The punishment of 'Censure' imposed on a member of service within a period of one year preceding the crucial date shall not be held against a member of service, if the delinquency in respect of which such punishment is imposed had occurred prior to five years preceding the crucial date. In

such cases the name of th member of services shall be considered for inclusion in the approved list."

7.In the present case on hand, the punishment of Censure was imposed on 02.07.2013 and the crucial date for preparation of panel for the year 2014-2015 is 01.04.2014. Hence, it is within one year. But the occurrence took place in the year 2004. Since the occurrence took place in the year 2004, as per the aforesaid rule, the punishment of Censure shall not be held against the petitioner for including his name in the panel.

8.Therefore, the third respondent is directed to include the name of the petitioner in the panel for promotion to the post of Sub Registrar Grade - II, for the year 2014-2015, at appropriate place, in view of my aforesaid findings and issue consequential order promoting him as Sub Registrar Grade - II, from the date on which his immediate junior was promoted.

9.The writ petition is disposed of with the above observation and direction. No costs. Consequently, connected miscellaneous petitions are closed.

TK

-s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Principal Secretary to Government
Home (SC) Department
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3. The Inspector General of Registration
Santhome High Road,
Chennai - 600 028.

+ 1 cc to M/s.Sudharshana Sundar, Advocate Sr 19031

+ 1 cc to Govt.Pleader SR 19247

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prk20/4

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