

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.20676 of 2016
and
W.M.P.No.17759 of 2016

D.Rajan

... Petitioner

-Vs-

1. The Transport Commissioner,
Chepauk, Chennai-600 005.
2. The Joint Transport Commissioner,
Chepauk, Chennai-600 005.
3. The Regional Transport Officer,
Red Hills, Nallur Village,
Chennai-600 067.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents to include the name of the petitioner in the appropriate place in the panel drawn for the year 2016-2017 for promotion to the post of Motor Vehicle Inspector (Non-Technical) and to promote him to the post of Motor Vehicle Inspector (Non-Technical) notwithstanding the order dated 05.02.2016 of the first respondent imposing punishment of stoppage of increment for three years with cumulative effect on the petitioner, within a time to be specified by this Court.

For Petitioner : Mr.K.Sridhar

For Respondents : Mr.S.Gunasekaran,
Additional Government Pleader

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus directing the respondents to include the name of the petitioner in the appropriate place in the panel drawn for the year 2016-2017 for promotion to the post of Motor Vehicle Inspector (Non-Technical) and to promote him to the post of

Motor Vehicle Inspector (Non-Technical) notwithstanding the order dated 05.02.2016 of the first respondent imposing punishment of stoppage of increment for three years with cumulative effect on the petitioner, within a specified time frame.

2.The petitioner was appointed as Junior Assistant in the year 1995 and promoted as Assistant in the year 2003 and further promoted as Superintendent in the year 2012. Upon a raid conducted by vigilance officials on 06.07.2011, some discrepancies were found in the accounts for which the petitioner was made responsible and accordingly he was issued with a charge memo. Thereafter, enquiry was conducted and the Enquiry Officer gave a finding that the charge against the petitioner has been proved. The petitioner submitted his explanation. Based on the findings of the Enquiry Officer, the first respondent passed an order dated 05.02.2016 imposing a punishment of stoppage of increment for three years with cumulative effect. Challenging the same, the petitioner filed a writ petition in W.P.No.10444 of 2016 before this Court and this Court granted interim stay on 21.03.2016.

3.When this being the position, the learned counsel for the petitioner states that temporary promotion can be granted to the petitioner as per Rule 39(d) of the Tamil Nadu State and Subordinate Service Rules, and that the pendency of the writ petition in W.P.No. 10444 of 2016 and the stay granted by this Court cannot be a bar, as in similar circumstances, in respect of some other person, they themselves have admitted and passed an order in G.O.(2D)No.557, Home (Tr.II) Department, dated 25.11.2010, granting temporary promotion under Section 39(d) of the Tamil Nadu State and Subordinate Service Rules. The learned counsel for the petitioner further submits that the petitioner has made a representation dated 22.04.2016 and the same has not been considered by the respondents till date.

4.The learned Additional Government Pleaders appearing for the respondents would contend that the petitioner has been punished for the offence and hence, even though interim stay has been granted by this Court, since he has been punished, he could not be considered for promotion.

5.At this juncture, the learned counsel for the petitioner prayed this Court that the representation of the petitioner may be directed to be considered by the first respondent, in tune with the order passed by the Government in G.O.(2D)No.557, Home (Tr.II) Department, dated 25.11.2010.

6.In view of the submissions made, without expressing any opinion as to the merits of the contentions raised by the writ petitioner in this writ petition, the writ petition is disposed

of directing the first respondent to consider the representation dated 22.04.2016 made by the petitioner and pass appropriate orders in tune with the order passed by the Government in G.O. (2D)No.557, Home (Tr.II) Department, dated 25.11.2010, within a period of one month from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Transport Commissioner,
Chepauk, Chennai-600 005.
2. The Joint Transport Commissioner,
Chepauk, Chennai-600 005.
3. The Regional Transport Officer,
Red Hills, Nallur Village,
Chennai-600 067.

+2cc's to Mr.K.Sridhar, Advocate, S.R.Nos.44654 & 44296
+1cc to the Government Pleader, S.R.No.44573

W.P.No.20676 of 2016
and
W.M.P.No.17759 of 2016

PA(CO)
CA(18/08/2016)

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