

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 09.10.2017**

**CORAM**

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**

**W.P.No.4898 of 2014 &**  
**MP No.1 of 2014**

N.Namachivayam

...Petitioner

-Vs-

The Inspector General of Registration  
Santhome  
Chennai 600 028.

...Respondents

**Prayer:**Writ Petition filed under Article 226 of the Constitution of India praying for direction to issue a Writ of Mandamus to direct the respondent to forthwith promote the petitioner as the Sub Registrar, Grad-II, with effect from 14.02.2014, the date on which the petitioner's juniors have been promoted.

For Petitioner :Mr.K.Selvaraj

For Respondent : Mr.A.Raja Perumal  
Addl.Govt.Pleader

\*\*\*\*\*

**ORDER**

The relief sought for in this Writ Petition is to direct the respondent to forthwith promote the petitioner as the Sub Registrar, Grad-II, with effect from 14.02.2014, the date on which the petitioner's juniors have been promoted.

2.The learned counsel appearing for the writ petitioner submitted that the petitioner was appointed as Junior Assistant in the Registration Department on 01.01.1987 and thereafter, he was promoted to the post of Assistant in the Registration Department on 12.01.1001. The petitioner's next avenue for promotion was Sub-Registrar, Grade II and the crucial date of preparation of panel was 01.07.2013. Since the writ petitioner was fully qualified for promotion to the post of Sub-Registrar-Grade II, the name of the writ petitioner was placed in Sl.No.4 of the panel published by the respondent, in proceedings dated 13.01.2014. However, the right of promotion of the petitioner was deferred on account of the fact that a charge memo was issued in proceedings dated 12.02.2014.

3.The learned counsel for the writ petitioner contended that admittedly, the penal was prepared on 13.01.2014 and as on the crucial date the writ petitioner was not facing any charge memo and therefore, the promotion pursuant to the approved panel ought to have been extended to the writ petitioner.

4.The learned Additional Government Pleader appearing for the respondent made a submission that considering the fact that as on the crucial date no charges were pending against the writ petitioner, his name was considered for inclusion in the panel for promotion dated 13.11.2014. However, a charge memo was issued in proceedings dated 12.02.2014, promotions to the petitioner's juniors were granted on 14.02.2014, and therefore, the rejection of promotion to the writ petitioner was rightly made in accordance with the Rules in force and the writ petitioner can claim promotion only if he is exonerated from the charges issued against him in proceedings dated 12.02.2014.

WEB COPY

5.General Rule 4(a) of the Tamil Nadu State and Subordinate Service Rules, was amended in G.O.Ms.No.22 Personnel and Administration Department dated 24.02.2014. In respect of the

consideration of members for inclusion in approved list, it is stated as under:

**“II. Consideration of members for inclusion in the approved lists:**

(1) In cases where enquiry (except Tribunal for Disciplinary proceedings enquiry) including preliminary or detailed enquiry by the appropriate Investigating Authority is pending against a member of service and no specific charges have been framed, promotion or appointment of such member of service shall be considered on the basis of the merit revealed through Annual Confidential Reports, Record Sheets and Punishments imposed. In cases where specific charges have been framed or charge sheet has been filed in criminal case against a member of service, promotion or appointment of such member of service shall be deferred till such proceedings are concluded. On exoneration or acquittal from the charges, a member of service shall be considered for promotion or appointment with retrospective effect from the date on which his immediate juniors was promoted, if he is otherwise qualified for such promotion.”

The Rule unambiguously stipulates that in cases where specific charges have been framed or charge sheets have filed in criminal case against the member of the service, promotion or appointment of such member of service shall be deferred till such proceedings are concluded. On exoneration of acquittal from the charges, the member

of service shall be considered for promotion or appointment with retrospective effect from the date on which his immediate junior was promoted, if he is otherwise qualified for such promotion.

6.Thus, the Rule in this regard is made clear by the State that promotion or appointment cannot be granted if any charge memo or criminal case is pending against the member of the service. This being the Rule in this regard, the rejection of promotion to the petitioner along with his juniors were rightly made and the case of the writ petitioner shall be considered only after the conclusion of the disciplinary proceedings initiated against him in charge memo dated 12.02.2014. Thus, the relief as such sought for in this Writ Petition for grant of retrospective promotion on par with his junior, cannot be considered.

7.Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition stands closed.

WEB COPY

**09.10.2017**

**rpa**

**S.M.SUBRAMANIAM, J.**

**rpa**

To

The Inspector General of Registration  
Santhome  
Chennai 600 028.



**W.P.No.4898 of 2014**

**WEB COPY**

**09.10.2017**