

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.10.2017

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.4108 of 2011 and M.P.Nos.1 & 2 of 2011

S.Vinayagam

.. Petitioner

Versus

The Commissioner of Transport,
Chepauk, Chennai - 5.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified mandamus, to call for the records of the respondent in connection with the impugned order passed by him Proc.R No.16772/T1/2010 (EO 359/2010) dated 10.11.2010 and quash the same and further direct the respondent to consider the claim of the petitioner for promotion as Motor Vehicle Inspector, Grade-I without reference to charge memo issued by the Government in Letter No.110565/Tr.II/2004-9 dated 06.02.2007 and promote him as Motor Vehicle Inspector, Grade-I and grant him all consequential service and monetary benefits.

For Petitioner : Mr.M.Muthappan

For Respondent : Mrs.K.Bhuvaneswari
Government Advocate

O R D E R

The order dated 10.11.2010 deferring the name of the writ petitioner for promotion is under challenge in this writ petition and further direction is sought for in this writ petition is to promote the writ petitioner as Motor Vehicle Inspector, Grade-I and grant him all consequential service and monetary benefits.

2 The learned counsel appearing for the writ petitioner made a submission that a charge memo was issued to the writ petitioner in proceedings dated 6.02.2007 and during the relevant point of time, the writ petitioner was due for promotion to the post of Motor Vehicle Inspector, Grade-I. A panel was prepared for promotion to the post of Motor Vehicle Inspector, Grade-I for the year 2010-2011 and the Transport Commissioner issued a proceedings dated 10.11.2010, deferring

the name of the writ petitioner for promotion on the ground that a specific charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules are pending against the writ petitioner.

3 Pendency of charges under the Tamil Nadu Civil Services (Discipline & Appeal) Rules and the pendency of the criminal case are certainly a bar for promotion and in this regard even as per the rules in force a Government servant facing disciplinary proceedings or criminal case are not eligible for promotion and the same is considered as demerit for promotion.

4 However, if the Government servant is exonerated or the charges are dropped, then he can seek retrospective promotion on par with his juniors. Thus, the non consideration of the name of the writ petitioner for promotion to the post of Motor Vehicle Inspector, Grade-I, during the pendency of the disciplinary proceedings framed under Rule 17 (b) of Tamil Nadu Civil Services (Discipline & Appeal) Rules, is in order and there is no infirmity in the impugned proceedings issued by the respondent on 10.11.2010.

5 It is left open to the writ petitioner, to claim promotions only after the completion of the disciplinary proceedings and in accordance with rules.

6 With these observations, the writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

cgi/ms

To

The Commissioner of Transport,
Chepauk, Chennai - 5.

+1 CC Mr.M.MUTHAPPAN Advocate SR.No. 74149

+1 CC GOVT.PLEADER Advocate SR.No. 74760

PPA(CO)

EGR 14/11/2017

W.P.No.4108 of 2011