

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Dated : 19.07.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.[MD].No.744 of 2014**and****M.P.(MD).No.2 of 2014**

1. The Secretary to Government
Rural Development and Panchayat Raj Department,
Secretariat, Chennai.
 2. The Director,
Rural Development and Panchayat Raj,
Panagal Building, Saidapet,
Chennai.
 3. The District Collector,
Dindigul District.
- ... Appellants
- Vs.
- A.Murugesan
- ... Respondent

PRAYER:Writ Appeal is filed under Clause 15 of the Letters Patent Act, praying to set aside the order dated 30.08.2013 made in WP (MD)No.12989 of 2013 on the file of this Court.

Prayer in WP(MD). 12989/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondent to promote the petitioner as Assistasnt Director of Rural Development along with the petitioners immediate juniors by considering the petitioners representation dated 20/07/2013 within the time frame that may be stipulated by this Honorable Court.

For Appellants : Mr.T.S.Mohammed Mohideen.
Additional Government Pleader,
For Respondent : Mr.S.C.Herold Singh.

O R D E R

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

Aggrieved by the order dated 30.08.2013, allowing W.P.(MD) No.12989 of 2013, the Government of Tamil Nadu is on appeal.



2.The respondent herein, Thiru.A.Murugesan, joined the department as Junior Assistant and was promoted as an Assistant in the year 1994 and posted at Collectorate Dindigul. He became Deputy Block Development Officer and Block Development Officer in the year 2008. His next promotional post was Assistant Director of Rural Development. On 07.07.2011, when the promotion panel was prepared with the crucial date being 01.03.2011, the writ petitioner was left out. His juniors were promoted as Assistant Director of Rural Development on 17.07.2013, vide G.O.No.351. The reason for leaving out the writ petitioner was that he was visited with minor penalty proceedings and imposed with the punishment of Censure on 02.06.2011.

3.According to the writ petitioner, on the crucial date ie., 01.03.2011, he was not suffering from any disqualification but, what was imposed on him was only Censure. That could not have been considered as a bar for promotion. He therefore, represented to the authorities by submitting a petition dated 20.07.2013. Since, it was not considered, he filed W.P.(MD)No.12989 of 2013. The learned Single Judge allowed the writ petition and issued a direction to the appellants herein to promote the writ petitioner as Assistant Director of Rural Development, on par with his juniors within a period of four weeks. Aggrieved by the said order, this Intra Court appeal has been filed.

4.Heard the learned Special Government Pleader appearing for the appellants and the learned counsel appearing for the respondent.

5.It is true that the writ petitioner was facing a punishment of Censure on 02.06.2011. But, his case for promotion ought to have been considered after the expiry of the punishment period, more so because, his juniors were promoted on 17.07.2013. Promotion to those who were juniors to the writ petitioner was given on 10.07.2013. On the said date, the period of punishment of Censure had already expired. Once the punishment period is over, there is no bar for considering the case of the petitioner for promotion. It is this reason which led the learned Single Judge to allow the writ petition. No exception can be taken to this.

6.Accordingly, the order allowing the writ petition is confirmed and this writ appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar



To

1. The Secretary to Government
Rural Development and Panchayat Raj Department,
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2. The Director,
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Chennai.
3. The District Collector,
Dindigul District.

+1cc to M/S. S.C.HEROLD SINGH, Advocate, SR.No.66483.
+1cc to Special Government Pleader, SR.No.66913.

ORDER MADE IN
W.A.[MD].No.744 of 2014
19.07.2017

MR/SMI/GSP
SDS/SV:AAMS/SAR 2/01.08.2017/2P/6C