



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.04.2017**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P. (MD) No.2134 of 2015

Thiyagarajan

...Petitioner

Vs.

The Principal District Judge,
Madurai,
Madurai District.

...Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondent to consider the petitioner's representation, dated 09.08.2014 and to award notional promotion to the petitioner as that in the case of petitioner's Juniors and also as per the list of promotion in A.No.250/2009, dated 23.12.2009 and A No.26/2010, dated 01.02.2010 of Principal District Judge, Madurai and consequently award all the monetary benefits attached with the promotion to the petitioner.

For Petitioner : No appearance

For Respondent : Mr.D..Venkatesh

O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J**]

This writ petition has been filed for a Mandamus to direct the respondent to consider the petitioner's representation and to award notional promotion.

2. It is not in dispute that the petitioner attained the age of superannuation on 31.01.2010 and the present writ petition has been filed in the year 2015. The petitioner's claim is largely based on the recommendation of the Hon'ble Justice Shetty Commission. In answer to the said contention, the respondent, The Principal District Judge, Madurai, Madurai District has filed counter affidavit stating as follows:-

"9. During the course of implementation of recommendation of the Justice Shetty Commission, further promotion was given to the employees in the Unit. But, for the reasons submitted



in the counter affidavit in Paragraph No.8 of the affidavit, the petitioner was not considered for promotion, but transferred and posted to act as Bench Clerk Grade-III, Judicial Magistrate's Court, Melur by redeployment of the post of Assistant of that Court, as per this Court's proceedings in A.No.260/2009, dated 23.12.2009. Even though the charge framed under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules for missing of a cheque for Rs.2,00,000/- marked as an Exhibit in S.T.C.No.3071/2005 on the file of the Judicial Magistrate No.II, Madurai, was found proved during the departmental enquiry held against him, considering the findings of the Enquiry Officer and further representation of the petitioner herein, leniency was shown to him and a minor punishment of "Censure" was awarded to him as per this Court's proceedings in D.E.No.1/2009, dated 27.01.2010. He was permitted to retire from service on superannuation on the afternoon of 31.01.2010, as per this Court's proceedings in A.No.23/2010, dated 28.01.2010. Since, the charge under Rule 17(b) was found proved against him, and since a punishment of 'Censure' within a period of one year prior to the crucial date should be held against the Officer. In such a case, the Officer's name should be passed over." Accordingly, his name was not considered for promotion and the act of the then Principal District Judge, Madurai is not arbitrary. Further from the date passing of order of censure i.e. 27.10.2010 till 31.01.2010 i.e. the date of retirement of the Bench Clerk grade III, the question of loss of promotion with monitory benefit does not arise."

3. The petitioner was not considered for promotion on account of a punishment period and for other reasons assigned in the above paragraph, the relief sought for by the petitioner cannot be granted. The writ petition is disposed of with the above observation. No costs.

Sd/-
ASSISTANT REGISTRAR(CS-II)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

The Principal District Judge,
Madurai,
Madurai District.

+1 CC TO MR.D.VENKATESH,ADVOCATE,SR NO.52279

jikr
MAS/RR/SAR3:02.05.2017:2P-3C