



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2017

WEB COPY

CORAM:

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

W.A.(MD)No.991 of 2017
and
C.M.P.(MD)No.6791 of 2017

1. The Director of Employment and Training,
Guindy, Chennai-32.
2. The Joint Director (Craftsmen Training),
Director of Employment & Training,
Guindy, Chennai-32.
3. The Government Industrial Training Institute,
Rep. By its Principal,
Tiruchendur,
Tuticorin District. ... Appellants/Respondents

Vs.

M.Pushbakaran ... Respondent/Petitioner

PRAYER: Writ Appeals filed under Clause 15 of Letter Patent, to set aside the order passed in W.P.(MD)No.10566 of 2016 dated 24.04.2017 on the file of this Court.

Prayer in WP(MD). 10566/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for impugned panel list order passed by the 1st respondent in his proceedings vide Proc.No: TP1/30700/2015 dated 30.05.2016 and quash the same for non inclusion of the petitioners name for the promotion of Training Officer post and may consequently direct 1st respondent to promote the petitioner as Training Officer.

For Appellants	: Mr.T.S.Mohammed Mohideen Additional Government Pleader
For Respondents	: Mr. K.P.Narayana Kumar for caveator

**JUDGMENT**

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

This Writ Appeal is directed against the order dated 24.04.2017 allowing in W.P.(MD)No.10566 of 2016 filed by the respondent herein. The respondent herein was appointed as Assistant Training Officer. He was issued with a charge memo dated 08.06.2012 which culminated in imposition of stoppage of increment without cumulative effect for one year. This order of punishment was passed on 16.04.2015.

2.It is the case of the writ petitioner that when the 2014-15 panel was prepared on 30.05.2016, his name was omitted. Challenging the said omission, he filed W.P.(MD)No.10566 of 2016. The said writ petition was allowed and direction for promoting the writ petitioner as Assistant Training Officer with effect from the date of promotion of his immediate junior was allowed. Aggrieved by the said order, this appeal has been filed by the departments.

3.Heard the learned Additional Government Pleader for the appellants and the learned counsel for the respondent.

4.The facts are not in dispute. The writ petitioner was levied with the punishment of stoppage of increment for one year without cumulative effect by an order dated 16.04.2015. The said order has become final.

5.A mere reading of the said order would show that the disciplinary authority directed stoppage of the next increment of the writ petitioner without cumulative effect for one year. It cannot be disputed that even though the order was passed on 16.04.2015, the said order would come into force only with effect from 01.07.2015, when the next increment fell due. Thus the punishment was in currency from 01.07.2015 to 30.06.2016. Since the panel was released on 30.05.2016, obviously the writ petitioner could not have found place in the said panel. The punishment was very much in force when the panel was released. The logical error committed by the writ petitioner is computing the period of one year from the date of the order of punishment. The period of one year cannot be calculated or computed with effect from 16.04.2015. It must be computed only from 01.07.2015, when the writ petitioners next increment fell due. It is on account of erroneous computation of the period of one year that the writ petition filed by the respondent herein came to be allowed.

<https://hcservices.ecourts.gov.in/hcservices/>
The learned counsel for the respondent would place reliance on some of the provisions set out in Fundamental Rules,



particularly Rule 24. We have gone through the said provision. The said provision has no relevance or bearing on the issue on hand. The order allowing the writ petition dated 24.04.2017 is set aside.

7. This Writ Appeal is accordingly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

+ 1 CC TO MR.K.P.Narayana Kumar , ADVOCATE IN SR No.73554

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.73897

Rmi

MK/SV MMS/SAR-4/3P/3C/20.09.2017

JUDGMENT MADE IN
W.A. (MD) No. 991 of 2017
21.08.2017