



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A.[MD].No.1631 of 2016
and
W.M.P.(MD).No.12354 of 2016

1.The Additional Chief Secretary
and Commissioner of Revenue Administration,
Revenue Department, Chepauk, Chennai.

2.The District Collector,
Dindigul District, Dindigul.

: Appellants

Vs.

R.Rajendran,
Revenue Assistant,
Office of the Revenue Divisional Officer,
Dindigul, Dindigul District.

: Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 27.06.2016 made in W.P.(MD).No.10215 of 2016, on the file of this Court.

Prayer in WP(MD). 10215/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings in Roc.No. 22768/2015/A1 dated 29.09.2015 and quash the same as illegal and consequentially to direct the respondents to promote the petitioner as Deputy Tahsildar by including his name in the panel of the Deputy Tahsildars for the year 2015.

For Appellants : Mr.S.Chandrasekar
Government Advocate
For Respondent : Mr.S.Visvalingam

JUDGMENT

<https://hcservices.ecourts.gov.in/judgements/> [Judgment of the Court was made by R.SUBBIAH, J.]

This Writ Appeal has been filed as against the order dated 27.06.2016 made in W.P.(MD).No.10215 of 2016.



2. The case of the respondent/Writ Petitioner before the learned Single Judge is that he has been working as Revenue Assistant in the Revenue Divisional Office, Dindigul. He married one Miss. Tamil Selvi, on 10.07.2011. She has been working as Professor in Arulmigu Palaniandavar Arts and Science College, Palani. On account of wedlock, they blessed with a female child. Subsequently, there arose some matrimonial dispute between them, which resulted the respondent/Writ Petitioner to file a petition for divorce in H.M.O.P.No.65 of 2012, before the Sub-Court, Palani and the same is pending. While so, his wife preferred a complaint before the All Women Police Station, Palani, against him, his family members and one Tamil Selvi, who is a Village Administrative Officer, alleging that he had developed illicit intimacy with the said Tamil Selvi. The said complaint was registered in Crime No.6 of 2013, under Sections 498(A), 406, 506 (ii) of the Indian Penal Code, Section 4 of the Dowry Prohibition Act, 1961 and also under Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002. In the meantime, his wife preferred yet another complaint on the file of very same Police Station, on the ground that the respondent/Writ Petitioner had criminally intimidated her and the said complaint was also registered in Crime No.19 of 2015 under Sections 294(b) and 506(i) of the Indian Penal Code. Based on the said complaint, he was placed under suspension under Rule 17(e) of the Tamil Nadu Civil Services [Discipline and Appeal] Rules, 1955, with effect from 14.06.2015, by order dated 17.06.2015.

3. Challenging the order of suspension, the respondent/Writ Petitioner filed W.P.(MD).No.10338 of 2015, which was dismissed by the learned Single Judge, on 23.07.2015. Aggrieved over the same, the respondent/Writ Petitioner filed W.A.(MD).No.937 of 2015, which was allowed by a Division Bench of this Court, on 04.09.2015. By virtue of the Judgment of the Division Bench, the respondent/Writ Petitioner was reinstated in service.

4. The grievance of the respondent/Writ Petitioner is that he is eligible to be included in the panel for promotion to the post of Deputy Tahsildar for the year 2015. However, the second appellant herein by his proceedings dated 29.09.2015 has declined to include the name of the respondent/Writ Petitioner in the panel for promotion on the ground that two charge memos issued against him were pending, besides a charge memo issued under Rule 17(b) of the Tamil Nadu Civil Services [Discipline and Appeal] Rules, 1955, as on the date of preparation of the panel. Challenging the order of the second appellant dated 29.09.2015 and for a direction to the appellants to promote the respondent/Writ Petitioner as Deputy Tahsildar, by including his name in the panel for the year 2015, the respondent/Writ Petitioner filed W.P.(MD).No.10215 of 2016.



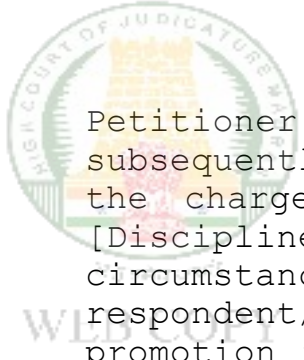
5. The learned Single Judge of this Court, by order dated 27.06.2016, disposed of the said Writ Petition, by placing reliance upon an order dated 21.01.2016, made in W.P.(MD).No.1320 of 2016, wherein it has been held that citing the pendency of matrimonial disputes, no employee shall be deprived of promotional avenues, unless it touches upon the moral turpitude and thus, directed the appellants herein to include the name of the respondent/Writ Petitioner in the panel for promotion to the post of Deputy Tahsildar for the year 2015. The learned Single Judge has also made it clear that the inclusion of the name of the respondent/Writ Petitioner in the panel for promotion to the post of Deputy Tahsildar shall be subject to the outcome of the criminal case filed against him. Challenging the said order, the appellants have come up with this Writ Appeal.

6. Today, when the Writ Appeal is taken up for consideration, it is submitted by the learned Special Government Pleader appearing for the appellants that a charge memo issued under Rule 17(b) of the Tamil Nadu Civil Services [Discipline and Appeal] Rules, 1955, against the respondent/Writ Petitioner was pending at the time when the panel was drawn for promotion to the post of Deputy Tahsildar. On account of pendency of criminal case and the charge memo, the name of the respondent/Writ Petitioner was not included in the panel for promotion to the post of Deputy Tahsildar. Thus, according to the learned Special Government Pleader, the order passed by the learned Single Judge needs interference.

7. Per contra, it is the submission of the learned counsel appearing for the respondent/Writ Petitioner that though it is true that when the panel for promotion to the post of Deputy Tahsildar for the year 2015 was drawn, his name was not included on the ground of pendency of charge memo issued under Rule 17(b) of the Tamil Nadu Civil Services [Discipline and Appeal] Rules, 1955, subsequently, he was exonerated from the charge under Rule 17(b) of the Tamil Nadu Civil Services [Discipline and Appeal] Rules, 1955 and therefore, the respondent/Writ Petitioner is entitled for inclusion of his name in the panel for promotion to the post of Deputy Tahsildar and the learned Single Judge has rightly considered the said aspect and directed the appellants herein to do so, which does not require any interference at the hands of this Court.

8. We have considered the above submissions and keeping in mind the said submissions made on either side, we have carefully gone through the materials available on record.

9. Admittedly, at the time of preparation of the panel for promotion to the post of Deputy Tahsildar, two charge memos issued against the respondent/Writ Petitioner were pending, besides a charge memo issued under Rule 17(b) of the Tamil Nadu Civil Services [Discipline and Appeal] Rules, 1955 and therefore, the name of the respondent/Writ



Petitioner was not included in the said panel. However, subsequently, the respondent/Writ Petitioner was exonerated from the charge under Rule 17(b) of the Tamil Nadu Civil Services [Discipline and Appeal] Rules, 1955. Under the above stated circumstances, the learned Single Judge held that the name of the respondent/Writ Petitioner shall be included in the panel for promotion to the post of Deputy Tahsildar, subject to the outcome of the criminal case filed against him. Thus, we do not find any infirmity in the order passed by the learned Single Judge warranting this Court to make any interference. Therefore, the Writ Appeal is liable to be dismissed.

10. In the result, the Writ Appeal is dismissed and the order dated 27.06.2016 made in W.P.(MD).No.10215 of 2016 is confirmed. The appellants are directed to include the name of the respondent/Writ Petitioner in the panel for promotion to the post of Deputy Tahsildar, which shall be subject to the outcome of the criminal case filed against him. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(R)

/True copy/

Sub Assistant Registrar

To

1.The Additional Chief Secretary
and Commissioner of Revenue Administration,
Revenue Department, Chepauk, Chennai.

2.The District Collector,
Dindigul District, Dindigul.

+1cc to Mr.S.Visvalingam, Advocate Sr.No.8035
+1cc to special Government Pleader SR.No.8340

NB

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JUDGMENT MADE IN
W.A. [MD].No.1631 of 2016
14.02.2017