



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P (MD) .No.11506 of 2017
in
W.M.P (MD) No.8860 of 2017

R.Kumaresan

... Petitioner

Vs.

1. The District Collector,
Thanjavur,
Thanjavur District.
2. The Director of Town Panchayat,
Kuralagam,
Chennai- 600 108.

... Respondents

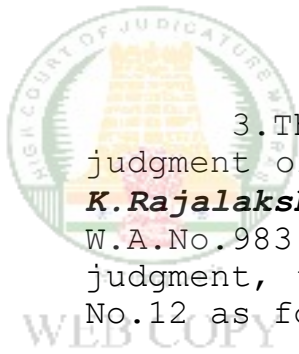
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the 2nd respondent in his proceedings in Na.Ka.No.3572/2016/A7, dated 02.02.2017 and quash the same and consequently direct the respondents to include the name of the petitioner in the promotion panel prepared by the 2nd respondent in his proceedings in Na.Ka.No.12592/2015/A7, dated 12.06.2017 by keeping the name of the petitioner above one SR Annadurai Serial No.167.

For petitioner : Mr.C.Jeganathan
For Respondents : Mr.N.S.Karthikeyan
Additional Government Pleader

ORDER

This writ petition is filed challenging the order passed by the second respondent, dated 02.02.2017 rejecting the representation of the petitioner to include his name in the seniority list prepared by the second respondent, on the ground that an order of 'Censure' had been issued as against the petitioner on 06.10.2015 and that therefore his name cannot be included.

2. Heard the learned counsel for the parties and perused the records.
<https://hcservices.ecourts.gov.in/hcservices/>



3. The learned counsel for the petitioner relied upon the judgment of the Hon'ble Division Bench of this Court in the case of **K. Rajalakshmi vs. The Principal Secretary to Government** in W.A.No.983 of 2015 and a batch, dated 14.09.2016. In the said judgment, the Hon'ble Division Bench of this Court has held in para No.12 as follows:

"12. Therefore, it is clear that the impugned G.O., is with several ambiguities, based on which, the appellant herein and the writ petitioner are denied promotion, even after the expiry of currency of punishment on the ground of 'check period' or treating 'Censure' as an embargo for granting promotion. Hence, the impugned G.O., insofar as it suggests the 'check period' and treats the 'Censure' as an embargo for granting promotion, which was already condemned by a Full Bench of this Court, cannot be maintained as a valid one. In view of the above, the order of the learned Single Judge passed in W.P.No.243 of 2015 is set aside and the impugned G.O., is quashed, insofar as it suggests the 'check period' and treats the 'Censure' as an embargo for granting promotion. The appellant and the writ petitioner shall be considered for promotion with retrospective effect, from the date when they became otherwise, eligible, within a period a period of three months from the date of receipt of the copy of this judgment. The writ appeal and the writ petitions are disposed of accordingly. No Costs. The connected miscellaneous petitions are closed."

3. In the above judgment, the Hon'ble Division Bench has categorically held that the petitioner cannot be denied promotion on the ground that there is an order of 'Censure' against him and quashed the Government Order introducing check period and directing the punishment of 'Censure' as an embargo for granting promotion.

4. Accordingly, in this case, the impugned order passed by the second respondent, dated 02.02.2017 is liable to be quashed. The writ petition is therefore **allowed** and the impugned order, dated 02.02.2017 is set aside. The second respondent is further directed to include the petitioner's name in the seniority list prepared by the second respondent vide Proceedings, dated 12.06.2017 above his junior in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/



To

1. The District Collector,
Thanjavur,
Thanjavur District.

2. The Director of Town Panchayat,
Kuralagam,
Chennai- 600 108.

+ 1 CC TO M/s.VEERA ASSOSICATES, IN SR No. 62231

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 62678

PJL

TE/KKR/SAR-IV : 10/07/2017 : 3P/5C

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W.M.P (MD) No.8860 of 2017
28.06.2017