



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2017
CORAM

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.13580 of 2017

Shajith Ahamed Kaja

... Petitioner

-VS-

1. The District Collector,
Theni District, Theni.
2. The District Revenue Officer,
Theni District, Theni.
3. The Revenue Divisional Officer,
Uthamapalayam, Theni.

... Respondents

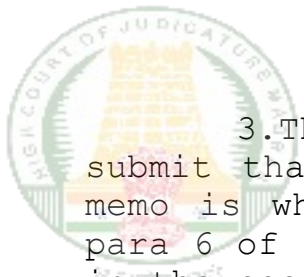
Prayer: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the memo dated 30.06.2015 issued by the second respondent in Roc.No:A2/9172/2015 and quash the same and consequently direct the second respondent to include the name of the petitioner in the panel of Senior Revenue Inspector for post of the Senior Revenue Inspector for the year 2015 in Theni District in accordance with the seniority without reference to the criminal case in C.C.No.34 of 2015 pending on the file of the learned Judicial Magistrate, Uthamapalayam.

For Petitioner	: Mr.A.Mohammed Yusuf
For Respondents	: Mr.R.Karthikeyan, `
	Additional Government Pleader

O R D E R

By consent of both sides, this writ petition itself is taken up for final disposal.

2.The present writ petition is directed against the impugned memo dated 30.06.2015, declining the request of the petitioner for including his name in the panel for promotion to the post of Assistant, as per Rule 4(a), Schedule VII (II) (1-C) of the Tamil Nadu State and Subordinate Service Rules, holding that if specific charges are framed or charge sheet has been filed in the criminal case on the crucial date, his name shall not be considered for inclusion in the approved list.



3.The learned counsel appearing for the petitioner would submit that the ground taken by the respondents in the impugned memo is wholly untenable and unjustified. Since this Court, in para 6 of the unreported order of the Apex Court, dated 19.08.2016 in the case of P.Periyasamy v. Commissioner of Transport, has held that there is no bar for promotion during the pendency of criminal case under the amendment in General Rule of 4(a), Schedule VII (II) (1-C) of the Tamil Nadu State and Subordinate Service Rules. But, the Full Bench of this Court, in the case of Deputy Inspector General of Police v. P.Rani, reported in 2011 (3) CTC 129 also held that there cannot be an absolute bar on promotion and also held that the Government Order does not cover the case of prolonged pendency of criminal case. Therefore, the pendency of criminal case cited against the petitioner for including his name in the promotion pane,l is liable to be set aside, cannot be accepted.

4.The reason is that as per Tamil Nadu Government Servants (Conditions of Service) Act, 2015, there is a bar even in a case where a person is selected for promotion and before giving promotion if he suffers registration of criminal case, his name need not be considered for promotion and such promotion shall be postponed till, such criminal case is disposed of.

5.The writ petition is dismissed with the above observation. No costs.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Theni District, Theni.
2. The District Revenue Officer,
Theni District, Theni.
3. The Revenue Divisional Officer,
Uthamapalayam, Theni.

+1cc to M/S. A.MOHAMED YUSUF, Advocate, SR.No.67091.

+1cc to Special Government Pleader, SR.No.67942.

W.P(MD)No.13580 of 2017

24.07.2017