

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 26.6.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH  
AND  
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.1151 of 2018  
and  
C.M.P.No.9215 of 2018

1. The State of Tamil Nadu,  
rep. by the Principal Secretary to Government,  
Micro Small and Medium Enterprises Department,  
Secretariat, Chennai 600 009.
2. The Industries Commissioner and  
Director of Industries and Commerce,  
SIDCO Buildings, Guindy, Chennai 600 032. .... Appellants

Versus

S.Kalaimurugan  
Industrial Co operative Officer,  
District Industries Centre,  
Sivaganga .....Respondent

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 2.12.2016 passed in W.P.No.33851 of 2015 on the file of this court.

WP Prayer: Writ Petition filed under Article 226 of the Constitutions of India praying for Issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the 2nd Respondent herein in Charge Memo No.26021/EG.3/2014 dated 07.01.2015 the order issued in R.C.No.26021/EG.3/2014 dated 05.06.2015 and the order of the 1st Respondent issued in Government Letter No.6074/EII(2)/2015-1 dated 06.10.2015 communicated to the petitioner vide R.C.No.26021/EG.3/2014 dated 07.10.2015 by the 2nd Respondent herein and to quash the same and to direct the 1st Respondent to include the name of the petitioner in the appropriate place in panel for promotion to the post of Assistant Director of Industries and Commerce (IC) for the year 2013-14

For appellants : Mr.P.S.Sivashanmugasundaram,  
Special Government Pleader

For respondent : C.A.Ganapathy for Mr.P.Krishnan

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned Special Government Pleader and Mr.P.Krishnan, learned counsel, who takes notice on behalf of the respondent.

2. The writ appeal has been filed by the State aggrieved against the direction to include the name of the respondent herein in the panel for the year 2013-14 for promotion to the post of Assistant Director (Industrial Co-operatives) in the appropriate place in the said panel.

3. It appears that the respondent herein, who had joined the State service as Typist in the year 1997 and got promoted upto Industrial Co-operative Officer in the year 2008 and awaiting the promotion to the post of Assistant Director (Industrial Co-operatives) and eligible to get empanelled for the promotion, disciplinary proceedings was initiated and a charge memo was issued on 7.1.2015 and thereby, he was denied the promotion and hence, he challenged the same by way of writ petition.

4. It is the stand taken by the learned Special Government Pleader that there are three stages of process for the promotion viz., (1) approval of estimated vacancies to be filled by promotion; (2) approval of the panel and (3) finalisation of the panel and therefore, after framing of the charge rightly the name of the writ petitioner has been deleted for consideration of promotion.

5. Having heard the learned counsel appearing for the parties and perused the order passed by the learned Single Judge, we find that in para 12 of the order, the learned Single Judge has observed categorically that the crucial date for preparation of panel to the said post fell on 15.4.2013, however, the charge memo was issued only on 7.1.2015 and therefore, on the crucial date, there was no currency of punishment and even no charge was pending, the writ petitioner was entitled for inclusion of his name in the panel for the year 2013-14 for promotion to the said post and therefore, directed for inclusion of his name in the panel for the year 2013-14 for promotion to the said post. We do not find any error in the order passed by the learned Single Judge. Moreover, we find that the charges, though they are ten in number, almost all the charges relate to some printing works and administrative permission ought to have been obtained in giving advance to the members of the Society. Therefore, it is not a serious misconduct of any corruption or misuse of power to neglect the name of the writ petitioner from the panel of the earlier period by issuing charge memo at a later date when there was no charge pending against him as on the crucial date of preparation of empanelment.

6. In such view of the matter, we do not find any reason to interfere with the order passed by the learned Single Judge. There cannot be any impediment for the appellants to consider the respondent herein for promotion by including his name in the

panel for the year 2013-2014 independent of the disciplinary proceedings initiated by way of charge memo issued subsequent to that. The writ appeal is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To:

1. The Principal Secretary to Government,  
State of Tamil Nadu,  
Micro Small and Medium Enterprises Department,  
Secretariat, Chennai 600 009.
2. The Industries Commissioner and  
Director of Industries and Commerce,  
SIDCO Buildings, Guindy, Chennai 600 032.
- 3 The Government Pleader,  
High Court, Madras-104.

+1cc to Mr.P.Krishnan, Advocate, S.R.No.40473

+1cc to the Government Pleader, S.R.No.40473

W.A.No.1151 of 2018

SMI/06.08.2018

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