

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19461 of 2016
and
WMP.No.16874 of 2016

A.Prabhakaran

... Petitioner

vs.

1.The Director of Rural Development
and Panchayat Raj,
Chennai - 600 005.

2.The District Collector,
Panchayat Development Wing,
Krishnagiri.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Mandamus directing the respondents herein to include the name of the petitioner in the panel as on 01.03.2016 for promotion to the post of Block Development Officer approved in Pro. Roc. No. 4558/2016/K1 dated 01.03.2016 of the 2nd respondent below serial No.5 (K.Dhanasekaran) and above Serial No.6 (V.Theerthagiri) notwithstanding the pendency of the charge memo in Roc.No.17976/2013/K1 dated 28.03.2014 and 16.06.2014 and promote him as such with retrospective effect from the date of promotion of his immediate junior with all consequential benefits.

For Petitioner : M/s.R.Thamaraiselvan,
Spl Government Pleader

For Respondents: Mr.R.S.Selvam
Government Advocate

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to include the name of the petitioner in the panel as on 01.03.2016, for promotion to the post of Block Development Officer approved in proceeding dated 01.03.2016 of the 2nd respondent below serial No.5 (K.Dhanasekaran) and above Serial No.6 (V.Theerthagiri)

notwithstanding the pendency of the charge memo in proceeding dated 28.03.2014 and 16.06.2014.

2. Admittedly, at the time of filing of the present writ petition a charge memo was pending against the writ petitioner. The learned Government Advocate appearing on behalf of the respondent brought to the notice of this Court that, a criminal case is also pending against the writ petitioner. Even as per the rules in force, pendency of the departmental proceedings as well as the criminal case is a bar for promotion. The Courts also held that, pendency of departmental disciplinary proceedings and the criminal case is a demerit and the case of such delinquent employees shall be considered only after the disposal of the departmental disciplinary proceedings and the criminal case. If the employee is exonerated from the allegations, then he is entitled to get benefit of promotion on par with the junior. In the event of imposing punishment his case shall be considered after the currency of punishment. In any event an employee who is facing departmental disciplinary proceeding as well as the criminal case is not entitled to be considered for promotion.

3. This being the principles to be followed, this Court is of an opinion that, the writ petitioner is not entitled for the relief as such sought for in this present writ petition. Even in the prayer, the writ petitioner has admitted the fact that, he was facing the departmental disciplinary proceedings when the panel was prepared by the respondents. Thus only in the event of exoneration, both from the departmental disciplinary proceedings and the criminal case, the writ petitioner is eligible to be considered subject to the condition that, he is otherwise qualify and there is no impediment for promotion.

4. Accordingly the writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

सत्यमेव जयते

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Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

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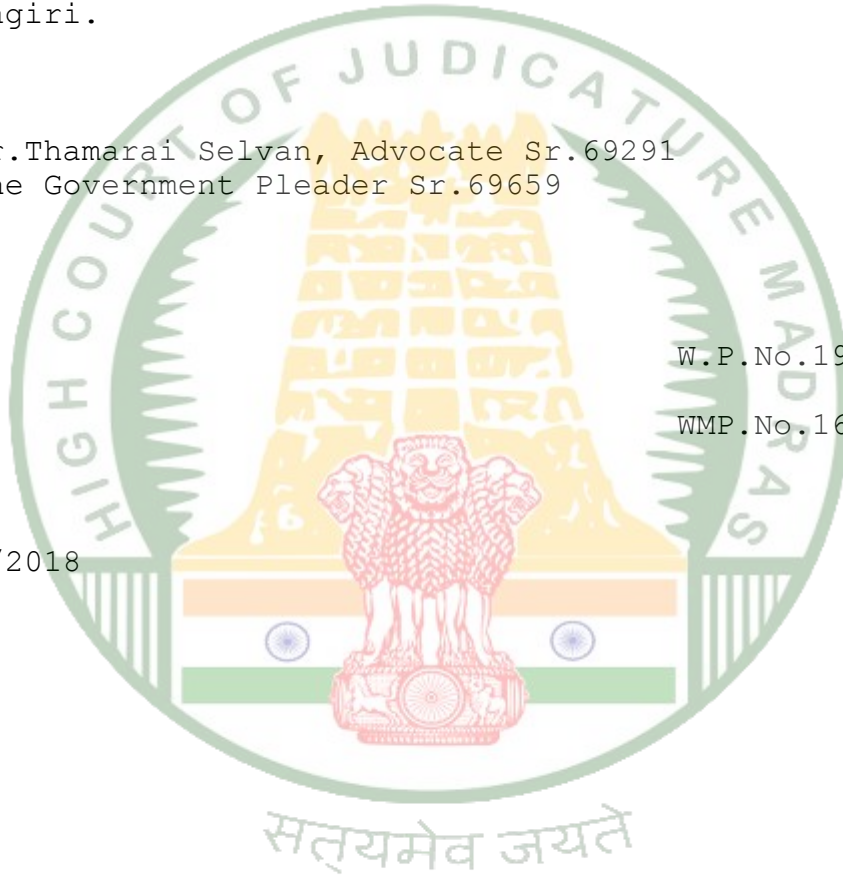
1.The Director of Rural Development
and Panchayat Raj,
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2.The District Collector,
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+lcc to Mr.Thamarai Selvan, Advocate Sr.69291
+lcc to the Government Pleader Sr.69659

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srg 31/10/2018



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