

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.8.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.1862 of 2018 against
WP.No.405 of 2014

1. The Principal Secretary,
Commissioner of Revenue Administration,
Chepauk, Chennai 5.
 2. The District Collector,
Krishnagiri District.
 3. The District Revenue Officer,
Krishnagiri.
- Appellants

Versus

K.Shanmugam

Respondent

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 4.2.2014 passed in W.P.No.405 of 2014 on the file of this court.

Prayer in WP.No.405 of 2014: This writ petition is filed under Article 226 of the Constitution of India, praying pleased to issue a writ of Mandamus or any other writ or order or direction in the nature of writ, directing the respondents to include the petitioners name in the panel for the post of Tahsildars for the year 2013 in Krishnagiri District above S.R.N.Madhuchezhiyan and below M.Mirunalini.

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

JUDGMENT

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

Heard the learned Special Government Pleader appearing for the appellants and Mr.S.Vijayakumar, learned counsel, who takes notice for the respondents.

2. The writ appeal has been filed by the State challenging the order passed by the learned Single Judge on 4.2.2014 directing the appellants to consider the claim of the writ petitioner for inclusion of his name in the panel for the year

2013 for the post of Tahsildar at appropriate place according to his seniority and pass appropriate orders if he is otherwise eligible, within a period of four weeks from the date of receipt of a copy of that order.

3. It appears that respondent herein, while he was working as Assistant Cadre Revenue Inspector in the office of Deputy Director of Geology & Mining, Krishnagiri, was proceeded departmentally for some lapse which resulted in a punishment of stoppage of increment for a period of three months without cumulative effect on 30.7.2012 and based on that punishment and relying upon G.O.Ms.No.248 dated 20.10.1987 his name was deferred and not included in the panel on the ground of 'check period' five years.

4. The learned Single Judge relying upon the decision of a Full Bench of this court in DIG OF POLICE, THANJAVUR RANGE AND ANOTHER v. V.RANI ((2011) 4 MLJ 1, held that non-inclusion of the writ petitioner's name in the panel for the year 2013 on the ground that currency of punishment during the check period cannot be sustained and directed for consideration of the claim of the writ petitioner for inclusion of his name in the panel for the year 2013.

5. The State, now, relying upon a subsequent Government Order in G.O.No.22 P&AR Department dated 24.2.2014, which introduces the concept of check period for five years, seeks to challenge the above order passed by the learned Single Judge contending that the said G.O. has retrospective effect from 27.8.2003.

6. Having heard the learned counsel appearing for the parties and perused the materials available on record, we are of the view that any amendment to any Rule which came later and has got penal consequence, cannot be treated retrospective. On the crucial date, the currency of punishment in respect of the respondent herein was completed as per the prevailing position of law at that time. Therefore, the subsequent amendment would not be made applicable to the respondent herein to deprive of his promotion opportunity as per the settled principles. The respondent herein shall be promoted in the usual course without application of amended rules which introduces the concept of five years 'check period'. The writ appeal is disposed of accordingly. No costs. Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Principal Secretary,
Commissioner of Revenue Administration,
Chepauk, Chennai 5.
2. The District Collector,
Krishnagiri District.
3. The District Revenue Officer,
Krishnagiri.

+1cc to Mr.S.Vijayakumar, Advocate SR.NO.60015

RK(co)
sm:12.10.2018

W.A.No.1862 of 2018



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