

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.10.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9490 of 2013

and

M.P.No.1 of 2013

Mrs.R.Usha

..Petitioner

vs

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

2.The Division Officer,
Zone - 7, Ambattur,
Corporation of Chennai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first Respondent, Commissioner Corporation of Chennai to REVOKE the order of cancellation of the promotion of the petitioner as Assistant in Zonal office - 7 in Po.Tu.Na.Ka.No.E5/2497/2012 dated 06.03.2013 and uphold the order dated 26.12.2012, listing the petitioner as promoted from Junior Assistant to Assistant Post in Ambattur Corporation office Journal - 7.

For Petitioner : Mr.N.A.Kareem

For Respondents : M/s.Karthikaa Ashok for R1 & R2

O R D E R

The relief sought for in this writ petition is for a direction to direct the first Respondent, Commissioner Corporation of Chennai to revoke the order of cancellation of

the promotion of the petitioner as Assistant in Zonal office - 7 in proceedings dated 06.03.2013 and uphold the order dated 26.12.2012, listing the petitioner as promoted from the post of Junior Assistant to the post of Assistant.

2.The grievances of the writ petitioner is that his name was considered for promotion to the Post of Assistant as he was fully eligible as per the rules in force. However, the inclusion of the name of the writ petitioner in the promotion panel was cancelled by the respondents. It is stated that the writ petitioner was promoted and thereafter, an order of cancellation was issued.

3.The learned counsel appearing on behalf of the respondent Corporation informed this Court that the writ petitioner is facing a criminal case registered by the Department of Vigilance and Anti-Corruption and also, the departmental disciplinary proceedings were initiated against the writ petitioner. During the pendency of the Department of Vigilance and Anti-Corruption case as well as the departmental disciplinary proceedings, the writ petitioner would not be eligible for promotion to the Post of Assistant as per the rules. In other words, pendency of the disciplinary proceedings is a bar for promotion. Thus, the case of the writ petitioner cannot be considered till the proceedings initiated against the petitioner is concluded.

4.This Court is of an opinion that pendency of the Vigilance case as well as the departmental disciplinary proceedings are bar for promotion. An employee, who is facing departmental disciplinary proceedings for grave allegations and also facing the Department of Vigilance and Anti-Corruption case, cannot be promoted during the pendency of the departmental disciplinary proceedings. In the event of exoneration from all these proceedings, the case of the writ petitioner shall be considered on merits and in accordance with law. In the event of punishment, the case of the writ petitioner has to be considered with reference to the punishment and in accordance with the rules in force.

5.This being the principles to be followed, the cancellation of promotion, at this point of time, is not infirm and in accordance with law. Thus, the case of the writ petitioner shall be considered only after the conclusion of the Department of the Vigilance and Anti-Corruption case as well as the departmental disciplinary proceedings.

6.With these observations, the writ petition stands

dismissed. However, there shall be no order as to costs.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

kak

To

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

2.The Division Officer,
Zone - 7, Ambattur,
Corporation of Chennai.

+1cc to M/s.N.A.Kareem, Advocate SR.No.71859

+1cc to M/s.Karthikaa Ashok, Advocate SR.No.71827

W.P.No.9490 of 2013

NRI (CO)

GMV (09/11/2018)



WEB COPY