



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 24.07.2019

CORAM:
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

WEB COPY

W.P.No.19908 of 2016

A.Valliammal

... Petitioner

vs.

1. The Principal Secretary and
Commissioner of Revenue Administration,
Chepauk, Chennai 600 005.
2. The District Collector,
Vellore District, Vellore - 9.
3. The District Revenue Officer,
Vellore District,
Vellore - 9.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for the issuance of a writ of Certiorarified mandamus, calling for the records relating to the 3rd Respondent herein in No.Rc.A2.22737/2013-2, dated 23.11.2013 and the consequential order passed by the second respondent herein insofar as rejecting the appeal by modifying the punishment is concerned in RC.A2.1297/2014, dated 06.05.2015 and the order rejecting the Revision Petition by the first Respondent herein in No.R.C.Service 4(4)/28880/2015, dated 28.12.2015 and quash the same and consequently direct the Respondents to confer all the attendant and consequential benefits including the promotion post with due regards to the petitioner's seniority.

For Petitioner : Mr.R.S.Anandan

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

O R D E R

Challenging the order dated 23.11.2013 made in Rc.A2.22737/2013-2 passed by the 3rd Respondent, the consequential order dated 06.05.2015 passed by the 2nd respondent herein and the order dated 28.12.2015 passed by the 1st Respondent herein rejecting the Revision Petition filed by her and for a consequential direction to the Respondents to confer all the attendant and consequential benefits including the promotion post with due regard to her seniority, the Petitioner has come up with the present Writ Petition.



2. According to the Petitioner herein, she joined the services of the Revenue Department as Assistant on 11.01.2010. She was served with a show cause notice dated 19.09.2013 by the 3rd Respondent vide proceedings in RC A2/22737/2013-2 under Rule 17(a) of TNCS (D&A) Rules. Four counts of allegations were made against her and she submitted her explanation on 04.10.2013 denying the same. Without accepting the said explanation, the 3rd Respondent held two charges against the Petitioner as proved and awarded the punishment of stoppage of next increment for a period of two years with cumulative effect, as per his order in No.Rc.A2.22737/2013-2, dated 23.11.2013.

3. Challenging the said order of the 3rd Respondent, the Petitioner preferred an Appeal before the 2nd Respondent on 27.12.2013. The 2nd Respondent herein, after considering the Petitioner's appeal, modified the penalty into stoppage of increment for a period of one year without cumulative effect vide order dated 06.05.2015. Though the punishment is modified, the initial defect cannot be cured without conducting proper enquiry as contemplated under the Rules and hence, the Petitioner filed a Revision Petition before the 1st Respondent herein on 30.06.2015. But, the 1st Respondent rejected the same vide order dated 28.12.2015.

4. In the meantime, on account of the punishment, the Petitioner's name was overlooked for the next promotion post of Deputy Tahsildar. Hence, the Petitioner submitted her representation on 18.01.2016 to the 1st Respondent herein through proper channel and requested to include her name in the panel with due regard to her seniority. Though the same was forwarded to the 2nd Respondent herein on 19.01.2016 itself by the Tahsildar, Vaniyambadi, till date, there is no action on the same. Whereas, the Petitioner's juniors were included in the promotion panel for the post of Deputy Tahsildar, overlooking her seniority without any fault on her part.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. It is not in dispute that pursuant to the departmental proceedings, punishment of stoppage of one increment for a period of two years with cumulative effect imposed by the Original Authority/3rd Respondent on 23.11.2013 was modified by the Appellate Authority/2nd Respondent into one of stoppage of one increment for a period of one year without cumulative effect vide order dated 06.05.2015. The order of the Appellate Authority would take effect from the date of the order passed by the Original Authority and that the period of stoppage of one increment for a period of one year had expired in December 2014 itself.



7. When the panel for promotion to the post of Deputy Tahsildar was prepared in the year 2015, taking into account the crucial date as 15.09.2015, the Petitioner was not facing any departmental proceedings or suffering any punishment, as the punishment imposed on him was already over. Though the Petitioner has challenged the order of punishment imposed by the Original Authority and the modification of the said order by the Appellate Authority and the order of rejection dated 28.12.2015 passed by the Revisional Authority, her main grievance is that her name was not considered in the Panel for promotion to the post of Deputy Tahsildar.

8. Learned counsel for the Petitioner submitted that it is suffice if promotion benefits are extended to the Petitioner, as stoppage of one increment for one year without cumulative effect is not going to affect her terminal benefits, though it would affect her promotion benefits.

9. On account of the modification of the order of punishment passed by the Appellate Authority on 06.05.2015, which replaced the order of the Original Authority dated 23.11.2013, the Petitioner did not have any departmental proceedings or punishment against her on the crucial date i.e. 15.09.2015, when the panel for promotion to the post of Deputy Tahsildar was prepared. Hence, the Petitioner is entitled to be considered for promotion and accordingly, Respondents herein are directed to consider the case of the Petitioner for promotion to the post of Deputy Tahsildar on the crucial date, i.e. 15.09.2015, if she is otherwise eligible, by placing the Petitioner above her juniors and grant her other benefits, within a period of eight weeks from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction.
No costs.

Sd/-
Assistant Registrar (J)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

- 1.The Principal Secretary and
Commissioner of Revenue Administration,
Chepauk, Chennai 600 005.
- 2.The District Collector,
Vellore District, Vellore - 9.



3. The District Revenue Officer,
Vellore District,
Vellore - 9.

WEB COPY

+1cc to Mr. R.S.Anandan, Advocate, S.R.No.63262
+1cc to the Government Pleader, S.R.No.64212

W.P.No.19908 of 2016

RRS (20/08/2019)