



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **06.11.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1137 of 2019

and

C.M.P (MD)No.10076 of 2019

1.The Government of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Home (Police V) Department,
Secretariat,
Chennai - 600 009.

2.The Director General of Police,
Tamil Nadu,
Chennai - 4.

3.The Commandant,
TSP 1st Battalion,
Trichy - 12.

... Appellants/ Respondents

Vs.

R.Perumal

... Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 27.07.2017 made in W.P(MD)No.9447 of 2017 on the file of this Hon'ble Court and thereby allow this Appeal.

Prayer in WP(MD) . 9447/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus or any other writ, order or direction in the nature of writ calling for the records relating to the impugned order of the first respondent in G.O.(D).No.570 Home (police.V) Department dated 9.5.2017 and quash the same insofar as excluding the petitioner's name and issue a consequential direction to the respondents to promote the petitioner to the post of Personal Assistant(Administration) in Police Department with retrospective effect from the date on which his immediate junior was promoted and accord all consequential and monetary benefits including seniority within a reasonable time period to be fixed by this Court.

For Appellants : Mr.A.Muthukaruppan,
Additional Government Pleader

For Respondent : Mr.N.Dilipkumar



JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.A.Muthukaruppan, learned Additional Government Pleader for the appellants and Mr.N.Dilipkumar, learned counsel for the respondent.

2. This writ appeal filed by the State is directed against the order dated 27.07.2017 passed by the learned Single Bench in W.P (MD)No.9447 of 2017. The said writ petition was filed by the respondent herein praying for issuance of a Writ of Certiorarified Mandamus to quash the Government Order in G.O.(D)No.570 Home (Police.V) Department, dated 09.05.2017 insofar as that excludes the writ petitioner's name for promotion to the Post of Personal Assistant (Administration) in the police Department and for consequential direction to give effect to the said order and place the writ petitioner at the appropriate position in the promoted Post and to sanction all consequential benefits. The writ petition has been allowed by the impugned order.

3. There are several grounds on which the writ petition was allowed and more importantly on the ground that tentative panel was prepared on 27.02.2017 in which the writ petitioner's name finds place and the writ petitioner was found to be fully eligible to be promoted to the promotional post. The order of promotion was issued on 09.05.2017. But, the writ petitioner's name did not find place. No reasons were assigned for dropping the writ petitioner's name and only on 11.05.2017, charge proceedings was issued. Taking note of the said fact, the learned Writ Court had allowed the writ petition.

4. Law on the issue is well settled as to when promotion can be deferred when charge proceedings is not pending as on the date when he is to be considered for promotion. Admittedly, when the temporary panel was drawn on 27.02.2017, which was the panel for the year 2016-2017, the writ petitioner neither suffer any delinquency nor any charge proceedings were pending. Therefore, there is no justification to drop the name of the writ petitioner in the promotion order dated 09.05.2017. We have also examined the other reasons assigned by the learned Writ Court and we find the same to be in order and does not call for any interference. Further, we note that the appellants/Department have implemented the directions issued by the learned Writ Court. But however, subject to the outcome of the charge proceedings. Thus, we decline to interfere with the same.



5. In the result, the writ appeal fails and is dismissed.
No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

Pm

To

1. The Government of Tamil Nadu,
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+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-96630[F] dated 07/11/2019)
+1 CC to SPL GP (SR-96649[F] dated 07/11/2019)

JUDGMENT MADE IN
W.A. (MD)No.1137 of 2019
06.11.2019

_MK (22.11.2019) 3P 6C