



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.A(MD)No.1526 of 2019

and

C.M.P(MD)No.12191 of 2019

WEB COPY

- 1.The Secretary to the Government,
Education Department,
Fort St. George, Chennai.
- 2.The Director of School Education,
College Road, Chennai - 600 006.
- 3.The Joint Director (Personnel),
School Education Department,
College Road, Chennai - 600 006.
- 4.The Principal,
O/o.District Institute of Education and Training,
T.Kallupatti,
Madurai District. ... Appellants/Petitioners

Vs.

N.K.Shankar ... Respondent/Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 11.01.2019 made in W.P(MD)No.12318 of 2017 on the file of this Court.

Prayer in WP(MD)12318 of 2017

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to promote the petitioner notionally in the cadre of Superintendent with effect from 01.04.1987 in consonance with the proceedings of the third respondent in Na.K.No.11573/A3/E1/2007, dated 20.05.2011 and to further promote the petitioner to the cadre of Personal Assistant to District Educational Officer with effect from 05.12.1991 in view of proceeding of the third respondent in Na.Ka.No.11573/A3/C1/2007, dated 22.07.2011 and grant him all other service and attendant benefits from the date on which he entitle.

For Appellants	: Mrs.S.Srimathy,
	Special Government Pleader.
For Respondent	: Mr.K.Balasurbamanian



JUDGMENT

(Judgment of the Court was delivered by **M.DURAISWAMY, J.**)

The State has filed the above Writ Appeal challenging the order passed by the learned Single Judge in W.P(MD)No.12318 of 2017, dated 11.01.2019.

2.The respondent / writ petitioner filed the Writ Petition in W.P(MD)No.12318 of 2017 to issue a Writ of Mandamus, directing the appellants / respondents to consider his claim for notional promotion and re-fixation of salary and pensionary benefits pursuant to the proceedings of the third appellant / third respondent dated 20.05.2011.

3.It is not in dispute that certain charges were framed against the respondent / writ petitioner and a punishment of stoppage of increment for one year was imposed on him on 16.12.1985. In view of the punishment imposed by the appellants / respondents, the notional promotion benefits were withheld by the appellants / respondents. In these circumstances, the respondent / writ petitioner has filed the Writ Petition.

4.The learned Single Judge followed the Judgment of the Full Bench of this Court in **2011 (4) MLJ 1 [Deputy Inspector General of Police and another Vs. V.Rani]**, wherein the Full Bench held that even in case of persons who have been visited with punishments, their claim for promotion should be considered after the expiry of the period, during which, punishment was imposed. The Full Bench also struck down on the provisions providing a check period of five years after completion of the punishments.

5.The learned Single Judge following the ratio laid down by the Full Bench observed that the respondent / writ petitioner should have been granted promotion after the expiry of the punishment period ie., from 01.04.1987 and the appellants / respondents are not justified in denying the promotion for the respondent / writ petitioner on the ground that pendency of the disciplinary proceedings which had ended on 06.12.1985.

6.Since the Writ Petition was allowed by the learned Single Judge following the ratio laid down by the Full Bench of this Court reported in **2011 (4) MLJ 1 (cited supra)**, we do not find any ground to interfere with the order passed by the learned Single Judge.

7.For the reasons stated above, the Writ Appeal is devoid of merits and the same is dismissed. The appellants / respondents are directed to confer the benefits as per the proceedings dated 22.07.2011 and grant him notional promotion with effect from 01.04.1987 and calculate his retirement benefits and arrears of salary and pay the same within a period of twelve weeks from the



date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

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Sub Assistant Registrar(CS)

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To

1.The Secretary to the Government,
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4.The Principal,
O/o.District Institute of Education and Training,
T.Kallupatti,Madurai District.

+1 CC to M/s.TR.BALASUBRAMANIAN, Advocate (SR-104944[F]

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SMA/03/01/2020/3P/6C