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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.16348 of 2019

and

W.M.P. (MD) Nos.12991 to 12993 of 2019

A.Pandian

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Home (Transport - II) Department,
Fort St. George, Chennai - 600 009.

2.The Transport Commissioner,
O/o. Transport Commissioner,
Chepauk, Chennai - 600 005.

3.Joint Transport Commissioner (Admn.),
O/o. Transport Commissioner,
Chepauk, Chennai - 600 005.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order made in Proc.No.42397/VB1/2012, dated 10.10.2018, passed by the second respondent, quash the same and consequently, direct the first respondent to promote the petitioner from the panel of Regional Transport Officer to the post of Deputy Transport Commissioner in terms of Letter R.No.41287/T2/2018, dated 16.04.2019.

For Petitioner : Mr.G.Ethirajulu

For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking to quash the order passed by the second respondent in Proc.No.42397/VB1/2012, dated 10.10.2018 and consequently, direct the first respondent to promote the petitioner from the panel of Regional Transport Officer to the post of Deputy Transport Commissioner in terms of Letter R.No.41287/T2/2018, dated 16.04.2019.

2.Mr.A.Muthukaruppan, learned Additional Government Pleader takes notice for the respondents. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of



admission itself.

3. According to the petitioner, he was appointed as Motor Vehicles Inspector Grade - II during the month of February, 1995 and thereafter, he was promoted as Motor Vehicle Inspector Grade - I during the month of June, 1999 and subsequently, he was promoted to the post of Regional Transport Officer (Enforcement), Madurai - 1, during the month of June 2009. After working in several divisions, finally, he was posted as Regional Transport Officer at Srirangam, on 04.08.2010. While so, on 26.08.2011, a trap proceeding was initiated by the Vigilance and Anti Corruption Department against one Kandasamy, Office Assistant and Venugopal, Junior Assistant.

4. Further, according to the petitioner, he has not attended the office on 26.08.2011 and he has gone to Chattrapatti Village situated at N.H.45 along with Krishnamoorthy, Assistant Branch Manager of Tamil Nadu State Transport Corporation Limited and Ramkumar, Technical Manager of National Highways Authority of India to conduct joint inspection for relocation of the bus shelter as per the instruction given by the District Collector, Trichy. After completion of the inspection work, the petitioner returned to the Office at 2.30 p.m. The Official diary maintained and the attendance register would substantiate the same. Only after reaching the Office, he knew about the inspection made by the officials of Vigilance and Anti Corruption, Trichy, and no enquiry was conducted against the petitioner on the said date. While so, to his shock and surprise, the second respondent herein issued a charge memo dated 25.07.2012, holding that as if on 26.08.2011, during the trap proceeding, the petitioner was found to have engaged and permitted a private person, namely K.K.Mani, Amman Driving School, Lalgudi, Trichy District, to do the official work of preparing bills in the Regional Transport Office, Srirangam and also directed the petitioner to show cause for the said charge memo. Accordingly, the petitioner has also submitted his explanation on 21.09.2012 denying all the allegations made against him. In the said explanation, a specific averment was made to the effect that the said Mani presented in the Office only in respect of an enquiry regarding the order of rejection of renewal of driving school licence.

5. According to the petitioner, the second respondent has not even annexed the documents and statements on the basis of which, the charge was framed against him. The second respondent, being an enquiry authority, ought to have followed the mandatory procedure to conduct an enquiry of the charge memo dated 25.07.2012, by giving an opportunity, when he has not satisfied with the explanation given by the petitioner, but, unilaterally, passed an order of punishment on 10.10.2018 in the absence of any enquiry or furnishing enquiry report or second show cause notice to the petitioner. Aggrieved over the same, the petitioner preferred an appeal on 28.01.2019 before the first respondent and



the same is pending so far. In the meanwhile, the third respondent herein sent a letter dated 16.04.2019, to the Zonal Officer concerned, inviting Proforma particulars of the Regional Transport Officers, who are working under his control, in the prescribed format, on or before 25.04.2019, for the promotion to the post of Deputy Transport Commissioners for the year 2018-2019, as per the Panel prepared by the first respondent, dated 08.04.2019. According to the petitioner, in view of the punishment, his name has not been finalised, because of the error committed by the second respondent in imposing punishment.

6. According to the petitioner, the date of incident is 26.08.2011, but the charges were framed only on 25.07.2012, i.e., after a lapse of nearly one year and the impugned order has been passed, after a lapse of 6 years and 3 months i.e., on 10.10.2018. The delay on the part of the second respondent vitiates the entire punishment itself. Apart from the above fact, the punishment will be used as a ruse to curtail the promotion opportunity to the petitioner. Hence, the present Writ Petition.

7. Considering the grievance of the petitioner, this Court, in the interest of justice, is inclined to direct the first respondent to consider the appeal filed by the petitioner, dated 28.01.2019 and pass orders on merits and in accordance with law, as expeditiously as possible, preferably, within a period of four weeks from the date of receipt of a copy of this order.

8. This writ petition is disposed of, with the above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Principal Secretary to Government of Tamil Nadu,
Home (Transport - II) Department,
Fort St. George, Chennai - 600 009.

2. The Transport Commissioner,
O/o. Transport Commissioner,
Chepauk, Chennai - 600 005.



3.The Joint Transport Commissioner (Admn.),
O/o. Transport Commissioner,
Chepauk, Chennai - 600 005.

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+1CC TO MR.G.ETHIRAJULU, Advocate Sr. No.77123

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 77238

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TR (29.07.2019) 4P 6C