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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2019

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM**

W.P. (MD) No.12419 of 2014

and

M.P. (MD) .No.2 of 2014

M.Muthukumaran

... Petitioner

Vs.

1.The Director of Municipal Administration,
Chepauk,
Chennai-600 005.

2.The Additional Director of
Municipal Administration,
Chepauk,
Chennai-600 005.

3.The Commissioner,
Kovilpatti Municipality,
Kovilpatti,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.44948/2012/K2, dated 17.07.2014 quash the same and direct the respondents to include the petitioner in the seniority panel and promote him as Assistant with effect from the date on which his junior was promoted.

For Petitioners	: Mr.R.Ponkarthikeyan
For R1 and R2	: Mr.D.Muruganantham Additional Government Pleader
For R3	: Mr.M.Saravanan

ORDER

The order impugned dated 17.07.2014 states that the writ petitioner was not considered for promotion to the post of Assistant, on account of the fact that during the relevant point of time, a charge memo was pending and the punishment of censure was issued. On account of the currency of punishment of censure for one year, the name of the writ petitioner was not considered for promotion to the post of Assistant in the panel of the year 2011-2012. Thus, challenging the impugned order, the petitioner has chosen to file the present writ petition.



2.The learned counsel for the writ petitioner made a submission that the G.O.Ms.No.248 Personnel and Administrative Reforms Department, dated 20.10.1997 was quashed by this Court and therefore, the punishment of censure or its currency cannot be a bar for promotion to the post of Assistant.

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3.This Court is of the considered opinion that censure is declared as a punishment under the Rules. Thus, the currency of punishment of censure is one year. Under these circumstances, an employee, who is facing the currency of punishment for censure, is not eligible to claim promotion for one year. Admittedly, in the present case, the name of the writ petitioner was passed over in the panel of the year 2011-2012.

4.The learned counsel appearing on behalf of the third respondent has brought to the notice of this Court that the case of the writ petitioner was considered during the year 2015-16 and he was promoted in proceeding dated 17.06.2016 to the post of Assistant. In view of the fact that the writ petitioner was considered in the panel of the year 2015-16, no further consideration is required, as far as the grounds raised in the present writ petition is concerned.

5.This Court is of the considered opinion that if at all any panel was prepared and the name of the writ petitioner was passed over in between the years 2012 and 2016 and if the writ petitioner was otherwise qualified for inclusion in the said panel, then alone the case of the writ petitioner is to be considered by following the Rules in force. In other words, if any of the junior to the writ petitioner was promoted in between the year 2012 and 2016 and the name of the writ petitioner was not considered without any valid reason, then the case of the writ petitioner is to be considered for grant of retrospective promotion and not otherwise. All such promotions are subject to verification of the Service Register as well as the eligibility criteria.

6.With these observations, this writ petition is dismissed of. No costs.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Director of Municipal Administration,
Chepauk,

<https://hcservices.ecourts.gov.in/hcservices/>
Chennai-600 005.



2.The Additional Director of
Municipal Administration,
Chepauk,
Chennai-600 005.

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+1CC TO MR.R.PON KARTHIKEYAN, Advocate Sr. No.80109
+1CC TO MR.M.SARAVANAN, Advocate Sr. No.80233
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.80302

W.P. (MD) No.12419 of 2014
06.08.2019

DB (CO)
TR (29.08.2019) 3P 6C