



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.12.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE A.P.SAHI, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.[MD]No.951 of 2015
and M.P. No.2 of 2015

- 1.The State of Tamil Nadu rep. by its
Principal Secretary to Government and
Agricultural Production Commissioner,
Agriculture Department, Chennai
- 2.The Chief Engineer (A.E.),
Nandanam, Chennai - 35 : Appellants/ Respondents
- Vs.

G.Thangadurai,
Assistant Engineer (A.E.),
Office of the Assistant Executive Engineer (A.E.).
Theni, Theni District. : Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 22.01.2013 passed in W.P(MD)No.6314 of 2011.

Prayer in WP(MD). 6314/ 2011 :

To issue a Writ of Certiorarified Mandamus, calling for the records relating to the order impugned panel in G.O.Ms.No.46 Agriculture (AA3) Department dated 22.02.2011 of Assistant Engineer fit for promotion to the post of Assistant Executive Engineer as on 01.04.2010 and quash the same as illegal and consequentially directing the 1st respondent to include petitioner name in the panel of Assistant Engineers fit for promotion to the post of Assistant Executive Engineers as on 01.04.2010 and by considering petitioner representation dated 20.04.2011 within the period that may be stipulated by this Honourable Court.

For Appellants : Mr.VR.Shanmuganathan,
Special Government Pleader

For Respondent : Mr.H.Mohammed Imran
For Ajmal Associates



J U D G M E N T

[Judgment of the Court was delivered by
SUBRAMONIUM PRASAD, J.]

The correctness of the judgment and order dated 22.01.2013 in W.P.(MD) No.6314 of 2011 is the subject matter of the instant Writ Appeal. The Writ Petition is one for a Certiorarified Mandamus to quash the impugned panel in G.O.Ms.No.46 Agriculture (AA3) Department dated 22.02.2011 of Assistant Engineer fit for promotion to the post of Assistant Executive Engineer as on 01.04.2010 and for a direction to include his name.

2. The facts of the case are as under:

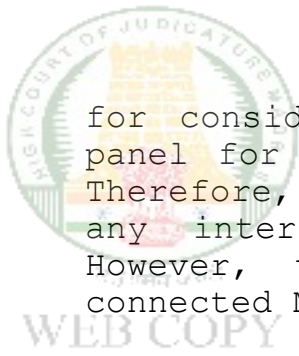
The petitioner was appointed in the post of Junior Drafting Officer (Agricultural Engineering Department) on 09.09.1976 and he was promoted as Assistant Engineer on 20.06.1987. A charge memo dated 16.11.2011 was served on him for an incident, which occurred in 2001. Be that as it may, the disciplinary proceedings ended against the petitioner respondent and a punishment of stoppage of increment for a period of 12 months without cumulative effect was imposed on the petitioner on 05.03.2009.

3. The short question that arises for consideration is that as on 01.04.2010, which is a crucial date, whether the punishment was continuing or not. The date of punishment is 05.03.2009. The punishment of stoppage of increment was for a period of twelve months. The period of twelve months expires on 04.03.2010. Therefore, on 01.04.2010, the punishment was not in vogue.

4. The learned counsel for the appellant has taken a stand that though the order is dated 05.03.2009, it became effective only on 01.04.2009, which is the date on which, the increment was stopped and the currency of punishment will be till 01.04.2010 Even taking that argument to be correct, the period of one year would expire on 31.03.2010 and not 01.04.2010 as stated by the counsel for the appellant.

5. The learned counsel for the respondent then relied upon Rule 1(I) in G.O.Ms.No.22, Personnel and Administrative Reforms (S) Department dated 24.02.2014 and this rule will operate in the case. The said Rule states that if a member of service is imposed with punishment for irregularities or delinquencies that were committed five years prior to the crucial date, his name shall be considered for promotion or appointment to a post, if the member of service is not undergoing such punishment on the crucial date or on the date of consideration for actual promotion.

6. In the facts of this case, none of the three above mentioned would be applicable and therefore there was no impediment



for considering the name of the petitioner for inclusion in the panel for the post of Assistant Executive Engineer on 01.04.2010. Therefore, the order of the learned Single Judge does not require any interference. Accordingly, the Writ Appeal is dismissed. However, there shall be no order as to costs. Consequently, connected M.P.(MD)N No.2 of 2015 is closed.

Sd/-

Assistant Registrar (records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RR/sts

To

1.The Principal Secretary to Government and
Agricultural Production Commissioner,
Agriculture Department, Chennai

2.The Chief Engineer (A.E.),
Nandanam, Chennai - 35

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-105470[F] dated
17/12/2019)

+1 CC to SPL.GP (SR-105590[F] dated 18/12/2019)

JUDGMENT MADE IN
W.A. [MD]No.951 of 2015
Dated:**17.12.2019**

MK (07.01.2020) 3P 5C