



WEB COPY

W.P. (MD) No.24652 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

and

THE HONOURABLE MRS.JUSTICE T.RAVINDRAN

W.P. (MD) No.24652 of 2019

and

W.M.P. (MD) Nos.21280 & 21282 & of 2019

T.Tamil Muhil

... Petitioner

-vs-

1.The Principal District Judge
Sivagangai District, Sivagangai

2.S.Mohan

... Respondents

PRAYER: Petition filed 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 first respondent in A.No.162/2019/A1, dated 24.10.2019, quash the same in so far as Serial No.2 is concerned, and also calling for the records pertaining to the impugned order passed by the first respondent in A.No.178/2019/A1, dated 24.10.2019 and quash the same and consequently direct the first respondent to promote the petitioner as Grade I Bench Clerk from 24.10.2019 with all consequential benefits.

For Petitioner : Mr.R.V.Rajkumar

For Respondents : Mr.G.Thalaimutharasu for R1

O R D E R

[Order of the Court was made by M.DURAI SWAMY, J.]

The petitioner has filed the above writ petition to issue a writ of certiorarified mandamus to call for the records relating to the impugned order passed by the first respondent, dated 24.10.2019, quash the same insofar as Serial No.2 is concerned and also to call for the records pertaining to the consequential impugned order passed by the first respondent, dated 24.10.2019, quash the same and consequently, direct the first respondent to promote her as Grade I



Bench Clerk with effect from 24.10.2019 with all consequential benefits.

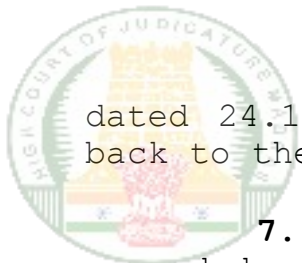
2. When the petitioner was working as Translator, she was posted at District Munsif-cum-Judicial Magistrate Court, Ilayankudi, on 11.07.2013. She was working there till 02.12.2013. According to the petitioner, before she joining at Ilayankudi, one V.Dhanalakshmi, who was working there, had committed default in payment of Telephone bills for the residence of the Judicial Officer from October, 2011 onwards and the telephone connection was disconnected. For the lapses committed by the staff of the said Court, the petitioner was issued with a memo dated 09.05.2019 i.e. after a lapse of more than five years. Thereafter, departmental proceedings were initiated and by the proceedings dated 18.07.2019, the punishment of censure was imposed on the petitioner.

3. According to the petitioner, the inordinate delay on the part of the first respondent in issuing the memo, after a period of more than five years and imposing punishment of censure, is erroneous in view of Clause (14) of Part-A to Schedule-XI of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

4. As per Clause (14) of Part-A to Schedule-XI of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the punishment of 'Censure' imposed on a member of service within a period of one year preceding the crucial date shall not be held against a member of service, if the delinquency in respect of which such punishment is imposed had occurred prior to five years preceding the crucial date, in such cases the name of the member of service shall be considered for inclusion in the approved list.

5. The first respondent, by order dated 18.07.2019, imposed punishment of censure and thereby, denied promotion to the petitioner to the post of Grade-I Bench Clerk and the petitioner's juniors, namely, Thiru.V.Balasubramanian and Thiru.S.Mohan were promoted as Grade-I Bench Clerk, overlooking the petitioner. Challenging the same, the petitioner has filed the present writ petition.

6. While imposing the punishment of censure, the first respondent observed that the final order in D.P.04/2019 was passed on 18.07.2019 and therefore, the petitioner cannot be promoted for one year with effect from 18.07.2019, as per Schedule-XI of Tamil Nadu Government Servants (Conditions of Service) Act, 2016. The first respondent has not considered Clause (14) of Part-A to Schedule-XI of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, while passing the impugned orders. Admittedly, the delinquency was in the year 2013 and the crucial date was 01.07.2019, whereas, the punishment was imposed on 18.07.2019. In such view of the matter, we are of the view that the impugned orders



dated 24.10.2019 can be set aside and the matter can be remitted back to the first respondent for fresh consideration.

7. Accordingly, the impugned orders, dated 24.10.2019, passed by the first respondent are set aside and the matter is remitted back to the first respondent for fresh consideration. The first respondent is directed to consider Clause (14) of Part-A to Schedule-XI of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and decide the matter afresh, after giving an opportunity of hearing to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

8. With these observations, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To:
The Principal District Judge,
Sivagangai District,
Sivagangai.

+1 CC to M/s.R.V.RAJKUMAR, Advocate (SR-104952[F] dated
13/12/2019)

W.P. (MD) No.24652 of 2019

and

W.M.P. (MD) Nos.21280 & 21282 & of 2019

12.12.2019

ns (CO)
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