

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.10534 of 2012

M.Mahaboob Sheriff

..

Petitioner

-vs-

1. The Principal Secretary to Government  
Rural Development and  
Panchayat Raj Department  
Secretariat  
Chennai 600 009
2. The Secretary to Government  
Personnel & Administrative  
Reforms Department  
Secretariat  
Chennai 600 009
3. The Commissioner  
Directorate of Rural Development  
and Panchayat Raj  
Panagal Buildings  
Saidapet  
Chennai 600 015
4. The District Collector  
Cuddalore District  
Cuddalore

Respondents

Petition under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the first respondent letter No.3049/E1(1)/2009-9 dated 4.8.2010 and Na.Ka.No.26616/E1/2010-9 dated 8.11.2011 and quash the same and direct the first and third respondents to include the name of the petitioner in the panel of the year 1999-2000 for the post as Assistant Director of Rural Development and promote him as Assistant Director of Rural Development notionally on par with his junior A.Kaliaperumal and confer all consequential service benefits.

For Petitioner :: Mr.A.R.Nixon

For Respondents:: Ms.Thangavadhana Balakrishnan  
Additional Government Pleader

ORDER

Mr.M.Mahaboob Sheriff had filed this writ petition in the year 2012, when he was aged about 67 years, challenging the impugned orders dated 4.8.2010 and 8.11.2011 passed by the first respondent, to quash the same with a further direction to the respondents to include his name in the panel of the year 1999-2000 for the post of Assistant Director of Rural Development and promote him as the Assistant Director of Rural Development notionally on par with his junior A.Kaliaperumal and confer all consequential service benefits.

2. Learned counsel appearing for the petitioner submitted that when the charge memo issued under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules by the District Collector, Cuddalore against the petitioner on 11.4.97, had ended in the recovery of Rs.1921/-, being 40% of the total loss of Rs.4803.75p, that cannot be construed as a punishment to deny the benefit of promotion to the petitioner to the post of Assistant Director of Rural Development notionally.

3. Opposing the above prayer, learned Additional Government Pleader appearing for the respondents submitted that when the petitioner's appeal was considered by the Principal Secretary to Government, finding that the petitioner suffered three punishments, namely, the punishment of stoppage of increment for two months without cumulative effect, in the proceedings of the District Collector, Cuddalore dated 8.9.98, the second punishment of stoppage of increment for three months without cumulative effect, in the proceedings of the District Collector, Cuddalore dated 11.10.98 and that the charge memo issued against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules by the District Collector, Cuddalore on 11.4.97 was staring at him on the date of drawal of the panel for the year 1999-2000, which finally ended in the recovery of Rs.1921/-, being 40% of the total loss of Rs.4803.75p by the order dated 27.11.2003, the appeal was finally rejected. Therefore, when the recovery order is also construed as penalty, the request of the petitioner cannot be acceded to.

4. This Court also agrees with the submission made by the learned Additional Government Pleader appearing for the respondents. The reason being that when the petitioner frequently faced with the departmental proceedings, the record shows that the first punishment of stoppage of increment for two

months without cumulative effect was imposed on the petitioner, by the proceedings of the District Collector, Cuddalore dated 8.9.98. The second punishment also ended against him by way of stoppage of increment for three months without cumulative effect, by the proceedings of the District Collector, Cuddalore dated 11.10.98. Thirdly, the charges framed against him under Rule 17(b) on 11.4.97 by the District Collector, Cuddalore also went against him in recovery of Rs.1,921/-, by the order dated 27.11.2003. Since on the date of drawal of panel for the year 1999-2000, the petitioner was facing disciplinary proceedings initiated under Rule 17(b) on 11.4.97 by the District Collector, Cuddalore, which ultimately ended as punishment of recovery of a sum of Rs.1,921/-, by order dated 27.11.2003, he is not legally entitled to get any promotion during the relevant period. Therefore, the writ petition is bereft of any merit and it is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ss

To

1. The Principal Secretary to Government  
Rural Development and  
Panchayat Raj Department  
Secretariat  
Chennai 600 009

2. The Secretary to Government  
Personnel & Administrative  
Reforms Department  
Secretariat  
Chennai 600 009

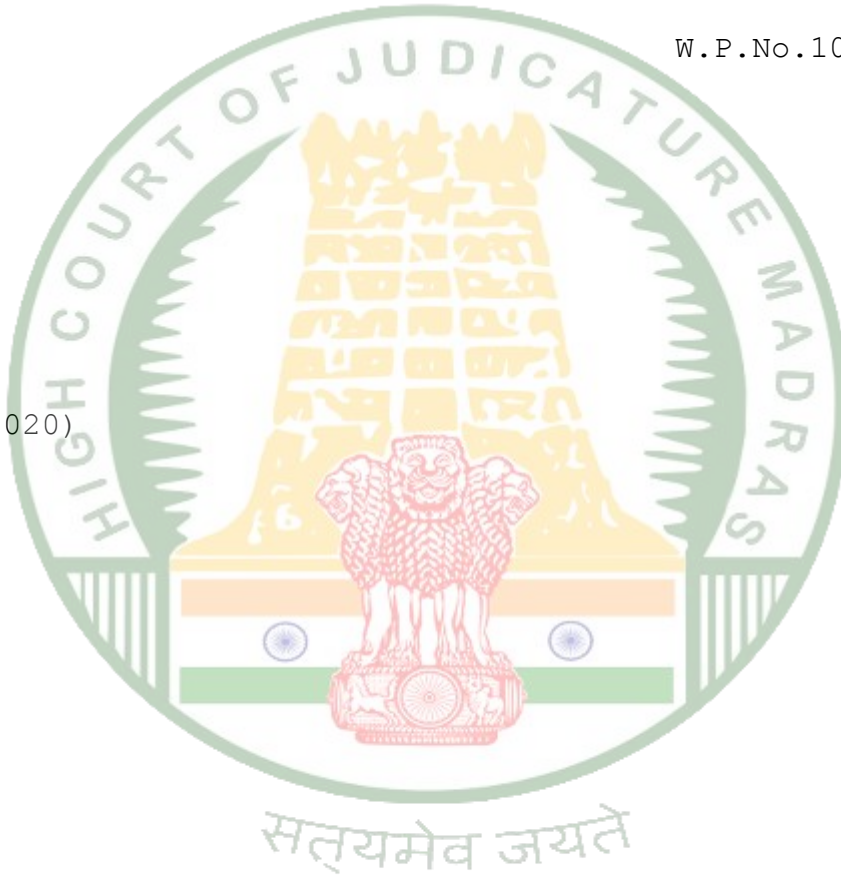
3. The Commissioner  
Directorate of Rural Development  
and Panchayat Raj  
Panagal Buildings  
Saidapet  
Chennai 600 015

4. The District Collector  
Cuddalore District  
Cuddalore

+1cc to M/s A.R.Nixon, Advocates , Sr.No.20522  
+1cc to Government Pleader, Sr.No.21172

W.P.No.10534 of 2012

RSV (CO)  
GS (04/06/2020)



WEB COPY