

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.37300 of 2006

[O.A.No.9577 of 1998]

V.R.Parthasarathy

...Petitioner

Vs

1.The Director of Industries and Commerce
Chepauk, Chennai-5

2.The Secretary to Government
Small Industries Department
Fort St.George, Chennai-9

...Respondent

Prayer: Originally this petition has been filed as Original Application No.9577 of 1998 before the Tamil Nadu Administrative Tribunal at Chennai and after abolition of TNAT, petition has been transferred and numbered as W.P.No.37300 of 2006.

Petition filed praying to issue a writ of Mandamus to include his name in the panel of Joint Directors for Industries and Commerce for the year 1998-1999 in category I of Tamil Nadu Industries Service and Consequently direct the respondents to consider his name for promotion to the above said post.

For Petitioner : Mr.Sathish Kumar
for Mr.V.R.Parthasarathy

For Respondents : Mr.K.Magesh
Special Government Pleader

ORDER

The petitioner originally filed the application before the Tamil Nadu Administrative Tribunal at Chennai in O.A.No.9577 of 1998, subsequently, the said Administrative Tribunal was abolished and the said O.A., has been transferred to the file of this Court and it is taken as writ petition in W.P.No.37300 of 2006.

2. This writ petition is filed praying for a direction to include his name in the panel of Joint Directors for Industries and Commerce for the year 1998-1999 in category I of Tamil Nadu Industries Service and consequently to direct the respondents to consider his name for promotion to the above said post.

3. The petitioner was working as Administrative Officer, Vikram Sarabhai Instronics Centre, Chennai at the time of filing the Original Application. In the year 1980, he was employed as Manager (Raw Materials and Infrastructure) at District Industries Centre, Salem. At that point of time, notice was issued against the Petitioner and the respondent framed charges under Section 17(b) of the Tamil Nadu Civil Services Classification (Control and Appeal) Rules. The petitioner submitted explanation and enquiry officer was appointed by the Government who gave his report. In G.O.Ms.No.584, Industries Department dated 03.07.1985, the Government accorded permission for prosecution as desired by CBI.

4. A private complaint was also preferred by the Joint Controller of Imports and Exports and in both the complaints, the case was registered and the same was pending. During the pendency of the criminal case, juniors of the petitioner got further promotion as Joint Director of Industries and Commerce and the petitioner's name has not been considered for inclusion in the panel for the years 1996-97 and 1997-98. Therefore, the petitioner filed the Original Application before TNAT 9577 of 1998. Subsequently, due to abolition of the TNAT, the matter has been transferred to this Court and renumbered as W.P.No37300 of 2006.

5. The learned counsel for the petitioner would submit that though criminal case was pending at the time of preparation of panel, subsequently on 29.03.2006, the case was ended in acquittal and no case was pending against the petitioner. But from 1997 to 2006, due to pendency of criminal case against the petitioner, he could not get promotion. If his name would have been considered for promotion, he could have retired in the post of Joint Director. The respondent's act of non inclusion of petitioner's name in the panel stating that since criminal case was pending, his name could not be considered in the panel is not sustainable. The criminal case ended in acquittal and therefore, he is entitled for promotion. Since the petitioner was eligible to be promoted and due to non inclusion of his name in the panel, he was not promoted and retired in the year 1998, he is entitled for notional benefits. The respondent may be directed to give notional benefits from the date if actually his name was considered for promotion list and extended with such consequential benefits.

6. The learned Special Government Pleader would submit that during the relevant period of time, there was criminal case pending against the petitioner. Therefore, his name was not considered for promotion. Criminal court pronounced the judgment on 29.08.2006 whereas the petitioner retired even in the year 1998 itself. Since during the relevant period of publishing the panel list for promotion, there was criminal case pending against the petitioner, his name was not considered for

promotion panel. Therefore, the relief sought for in this petition is not maintainable and writ petition is liable to be dismissed.

7. Heard and perused the records.

8. Admittedly, the petitioner was working as Manager (Raw Materials and Infrastructure) in the District Industries Centre, Salem, in the year 1980. While he was working, a case was registered against the petitioner for certain irregularities that were found by the Central Bureau of Investigation. Petitioner was issued with a show cause notice. The respondent framed five charges under Section 17 (b) of TNCSC (Control and Appeal) Rules. The petitioner has also submitted his explanation to the charges framed against him. The enquiry officer appointed by the Government, given his report. The Government accorded permission for prosecution as desired by CBI. A private complaint was also preferred by the Joint Director of Imports and Exports and in both the cases, FIR was filed and subsequently after investigation, charge sheet was filed and the same was taken on file in C.C.Nos.16 and 80 of 1997. Admittedly, the case was disposed of 29.08.2006. So during the relevant period, criminal case was pending. Therefore, his name could not be considered in the panel. Though the learned counsel for the petitioner would contend that mere pendency of the criminal case is not the ground for non inclusion of his name in the panel. Further, subsequently, he got acquittal, therefore, he cannot be punished for the innocence. The said contention is not acceptable, since during the relevant point of time, criminal case registered against him was pending. Further the cases registered against him were based on grave allegations of corruption and the same was pending. Therefore, his name was not considered for further promotion. However, the petitioner has retired in year 1998 itself. Even after disposal of the criminal case, based on the disciplinary proceedings, his name was not considered for promotion panel.

9. In view of the foregoing reasonings, there is no merit in the writ petition and therefore, the writ petition is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Director of Industries and Commerce
Chepauk, Chennai-5

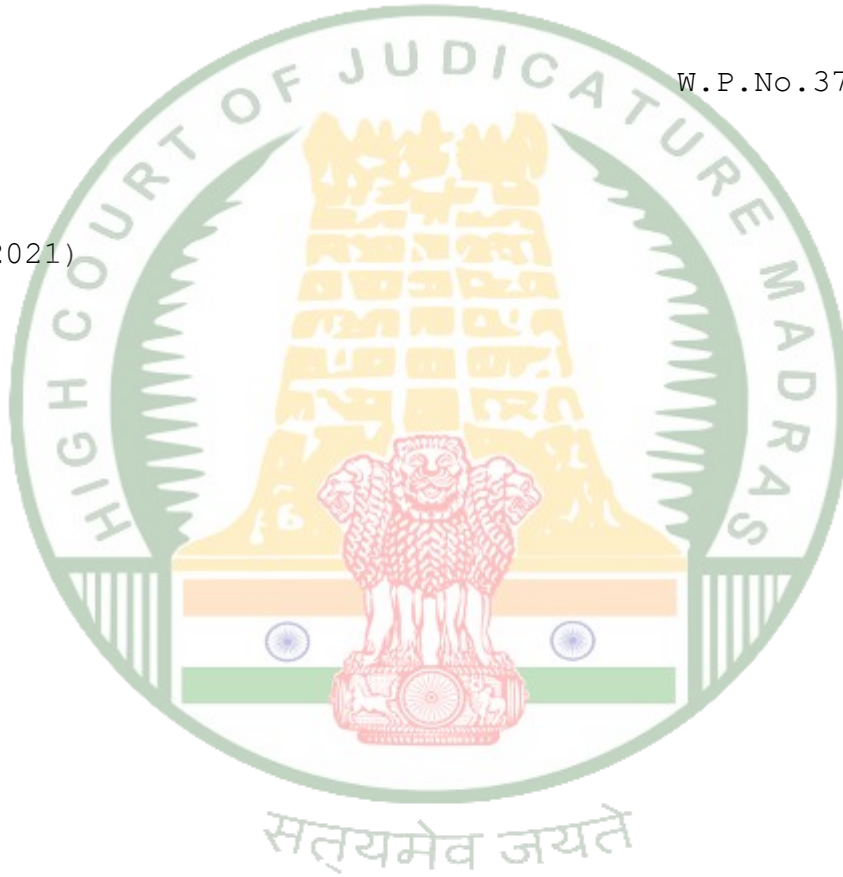
2.The Secretary to Government
Small Industries Department
Fort St.George, Chennai-9

+1 CC to Mr.R. Parthasarathy, Advocate sr 38463.

+1 CC to The Government Pleader sr 38423.

W.P.No.37300 of 2006

RLD(CO)
SP(01/02/2021)



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