

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.3551 of 2020

and

WMP No.4160 of 2020

Mr.S.Madheswaran

..Petitioner

.v.

1.The State of Tamil Nadu,
Rep.by its Principal Secretary to Government,
Revenue Department,
Secretariat, Fort St. George,
Chennai 600 009.

2.The Principal Secretary cum Commissioner
of Revenue Administration,
Disaster Management and Mitigation Department,
Ezhilagam, Chepauk,
Chennai 600 005.

3.The District Collector,
Office of the Collectorate,
Salem District,
Salem.

4.Tmt.K.Shanthi,
Enquiry Officer,
Special District Revenue Officer,
Office of the Project Directorate,
Tamil Nadu Road Sector Project-II,
Project implementation unit,
Salem District.
Presently working as
Chief Executive Office,
Tamilnadu Khadi & Village Board.

... Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondent to consider the petitioner for promotion to the post of Deputy Collector based on inclusion of his name in the panel in the year 2019-2020 without reference to the charge memo issued by the 2nd respondent in ser.2(4)/24647/2016-2 dated 13.01.2018 based on the petitioner representation dated 01.12.2019.

For Petitioner : Mr.R.Selvakkodi

For R 1 to R 3 : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

O R D E R

This writ petition has been filed for the issue of a writ of mandamus, directing the respondents to consider the promotion of the petitioner to the post of Deputy Collector by including his name in the panel of the year 2019-2020.

2.The case of the petitioner is that he was working as a Tahsildar and a Charge Memo came to be issued against him by the 2nd respondent by proceedings dated 13.01.2018. The petitioner challenged the said Charge Memo before this Court by filing W.P.No.24897 of 2018 and the same was dismissed by this Court by an order dated 07.03.2019. Aggrieved by the same, the petitioner filed an appeal in W.A.No.2119 of 2019. The Writ Appeal was disposed of by an order dated 18.07.2019, by specifically directing the respondents to complete the enquiry initiated against the petitioner within a period of three months.

3.The learned Special Government Pleader on instructions submitted that the enquiry is still pending and no final orders have been passed. The learned Special Government Pleader also submitted that the name of the petitioner was not added/recommended to be included in the promotion panel since the enquiry is pending.

4.The learned counsel for the petitioner submitted that the respondents have not complied with the orders passed by this Court and the enquiry is being kept pending intentionally only to deprive the petitioner of his promotion prospects. Therefore, the learned counsel submitted that the name of the petitioner can be added in the panel and he can be considered for promotion subject to the result of the disciplinary proceedings.

5.This Court has carefully considered the submissions made on either side and the materials available on record.

6.The Division Bench of this Court by an order dated 18.07.2019, had specifically directed the respondents to complete the disciplinary proceeds within a period of three months. This order has not been complied with till date. The respondents have also not approached this Court seeking for any extension of time. In the meantime, a panel is being prepared for the year 2019-2020 for consideration for promotion to the post of Deputy Collector. The non-compliance

of the order by the respondents cannot be put against the petitioner and he cannot be deprived of participating in the process of promotion. If any orders had been passed in compliance with the directions given by this Court, the petitioner would have at least known as to where he actually stands.

7. In view of the above discussion, this writ petition is disposed of with a direction to the 2nd respondent to include the name of the petitioner in the provisional promotion list of promotion to the post of Deputy Collector. This shall be made subject to the result of the disciplinary proceedings pending against the petitioner.

This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

KP

To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Revenue Department,
Secretariat, Fort St. George,
Chennai 600 009.
2. The Principal Secretary cum Commissioner
of Revenue Administration,
Disaster Management and Mitigation Department,
Ezhilagam, Chempauk,
Chennai 600 005.
3. The District Collector,
Office of the Collectorate,
Salem District,
Salem.

+1cc to Mr.R.Selvakkodi, Advocate SR.No.17309

+1cc to Government Pleader SR.No.17191

W.P.No.3551 of 2020

PA (CO)
GM (18/03/2020)