

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2020

CORAM

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

WP.No.3423 of 2020
and
WMP.Nos.3991 & 3993 of 2020

L.Rajakumar

... Petitioner

- Vs -

1. The Commissioner of Labour,
Chennai-600 006.
2. The Joint Commissioner of Labour II,
Chennai-600 006.
3. The Assistant Commissioner of Labour,
Enforcement Wing,
Tiruvallur, Tiruvallur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, to call for the records of the 3rd respondent made in impugned order A/950/2019 dated 10.1.2020 and consequently direct the respondents to include petitioner's name in the approved panel list to the post of Assistant Commissioner of Labour of the year 2017-2018.

For Petitioner : Mr.N.Naganathan

For Respondents : Mr.P.S.Sivashanmugasundaram
Special Government Pleader.

WEB COPY
O R D E R

This writ petition has been filed challenging the order passed by the third respondent imposing a punishment of stoppage of increment for one year without cumulative effect.

2. The petitioner was working as a Deputy Inspector of Labour and disciplinary proceedings came to be initiated against him. Initially a charge memo was issued against the petitioner under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules. The second respondent, by his proceedings dated 20.09.2019 found that the charge memo issued under 17(b) of Tamil Nadu Civil Services (Discipline and

Appeal) Rules is not sustainable and that on the facts and circumstances of the case, only a charge memo under 17(a) of Tamil Nadu Disciplinary Service Rules can be issued. Pursuant to the same, the third respondent proceeded to conduct the enquiry and ultimately, imposed the punishment of stoppage of increment for one year without cumulative effect.

3. The order passed by the third respondent specifically provides for Appellate remedy before the second respondent. The petitioner, without exhausting his remedy, directly approached this Court only on the ground that the promotional prospects of the petitioner is affected due to the punishment imposed against him by the third respondent.

4. Heard Mr.N.Naganathan, learned counsel appearing on behalf of the petitioner and Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader appearing on behalf of the respondents.

5. The impugned order passed by the third respondent has specifically provided for an appellate remedy to the second respondent. Whatever may be the grievance of the petitioner, where an alternative remedy has been provided, this Court will not entertain this petition under Article 226 of the Constitution of India. The petitioner has to necessarily exhaust the alternative remedy before approaching this Court.

6. In view of the above, this Court is not inclined to entertain this writ petition and accordingly, the same is dismissed. The petitioner shall file an appeal before the second respondent, within a period of one week from the date of receipt of copy of this order. The second respondent, on receipt of the appeal filed by the petitioner, shall take a decision in the appeal, within a period of eight (8) weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

kmi

To

1. The Commissioner of Labour,
Chennai-600 006.

2. The Joint Commissioner of Labour II,
Chennai-600 006.

3. The Assistant Commissioner of Labour,
Enforcement Wing,
Tiruvallur, Tiruvallur District.

+1cc to Mr.N.Naganathan, Advocate, S.R.No. 11512
+1cc to the Government Pleader, S.R.No. 11803

WP.No.3423 of 2020

VG II(CO)
GN(17/02/2020)



WEB COPY