



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.3127 of 2011

WEB COPY

S.Nagendra

... Petitioner

Vs.

1.The Special Commissioner and Commissioner of
Revenue Administration,
Disaster Management and Mitigation Department,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The District Collector,
Kanyakumari District,
Nagercoil.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in connection with the impugned Memo issued by him in A6/19919/2009 dated 11.11.2010 and quash the same as illegal and arbitrary and consequently direct the respondents to include the petitioner's name in the panel for promotion to the post of Deputy Tahsildar for the year 2006 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For R1 and R2 : Mr.C.M.Marichelliah Prabhu
Addl.Govt.Pleader

ORDER

The impugned order dated 11.11.2010 reveals that the case of the writ petitioner was taken up for consideration pursuant to the orders of this Court in W.P.(MD)No.9942 of 2010, dated 02.08.2010. The Competent Authority / District Collector, on verification of the Service Register of the writ petitioner found that he suffered a punishment of stoppage of increment for six months with cumulative effect in proceedings dated 06.12.2005, issued by the District Revenue Officer. As on the crucial date for inclusion of names in the panel, the currency of punishment was imposed. Thus, the writ petitioner was held not eligible for promotion to the post of Deputy Tahsildar for the year 2006. The said impugned order, dated 11.11.2010, is sought to be quashed and a further direction is sought to grant promotion to the post of Deputy Tahsildar.



2. Promotion *per se* cannot be claimed as a matter of right. Consideration for promotion is a right of an employee. All eligible and qualified employees longing to secure promotion in the order of seniority should be considered at the time of preparation of panel for promotion. Thus, consideration is a right. Question arises whether the case of the writ petitioner was considered or not. The petitioner filed a writ petition on earlier occasion and a direction was issued to consider the representation. Pursuant to the said order of this Court, the case of the writ petitioner was considered. On verification of the service records, the District Collector found that there was currency of punishment during the relevant point of time, when the panel was prepared. As on the crucial date, if any employee is suffering currency of punishment, then, such employee is not entitled for promotion. However, after the period of currency expires and if the employee is otherwise qualified in accordance with the Rules, then, in the subsequent panels, the case of such employee ought to be considered. This being the principles to be followed, this Court is of the considered opinion that the case of the writ petitioner is to be considered in the subsequent panel, if he is otherwise qualified and eligible for inclusion in the panel for promotion to the post of Deputy Tahsildar. As far as the penal of the year 2006 is concerned, the petitioner was suffering with currency of punishment and therefore, he is dis-entitled from claiming promotion. This being the factum, this Court do not find any infirmity or perversity with reference to the reasons furnished in the impugned order and accordingly, the Writ Petition is devoid of merits and stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

To

1.The Special Commissioner and Commissioner of
Revenue Administration, Disaster Management and Mitigation
Department, Ezhilagam, Chepauk, Chennai - 600 005.

2.The District Collector, Kanyakumari District, Nagercoil.

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-19243[F] dated 07/10/2020)

+1 CC to M/s.GP (SR-19422[F] dated 08/10/2020)

W.P. (MD) No.3127 of 2011

06.10.2020

MR (CO)

AP(15/10/2020) 2P 5C

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