



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.13484 of 2012

and

M.P. (MD)No.1 of 2012

WEB COPY

N.Madasamy

... Petitioner

Vs.

1. State of Tamil Nadu,
represented by the Secretary to Government,
Health Department,
Secretariat, Chennai-9.

2.The Director of Public Health
and Preventive Medicine,
Chennai-6.

... Respondents

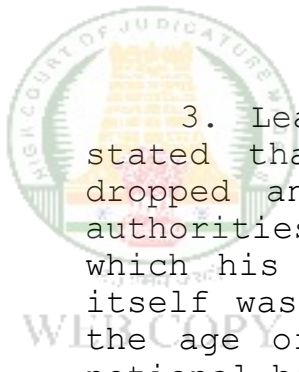
PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to promote the petitioner as Administrative Officer notionally from the date on which his junior was given promotion ie., on 03.12.2007 and further direct the respondents to include the petitioner's name in the panel for Deputy Director promotion for the year 2012-2013 in the appropriate place and promote the petitioner as a Deputy Director with all consequential benefits.

For Petitioner : Mr.V.Panneerselvam
for M/s. C.S. Associates
For Respondents : Mr.V.Anand
Government Advocate

ORDER

The relief sought for in the present writ petition is to direct the respondents to promote the petitioner as Administrative Officer notionally from the date on which his immediate junior was promoted on 03.12.2007 and further to the post of Deputy Director from the panel of the year 2012-2013.

2. The grievance of the writ petitioner is that one set of charge memorandum was issued against him while he was working as Superintendent. His name was overlooked for promotion to the post of Administrative Officer due to the pendency of the charges under Rule 17(b) of Tamil Nadu Civil Service (Discipline & Appeal) Rules.



3. Learned Counsel appearing on behalf of the petitioner has stated that the said charges against the writ petitioner were dropped and after exoneration, he made a representation to the authorities concerned to grant notional promotion from the date on which his immediate junior was promoted. The said representation itself was not considered and now the writ petitioner has attained the age of superannuation and his case has to be considered for notional benefits.

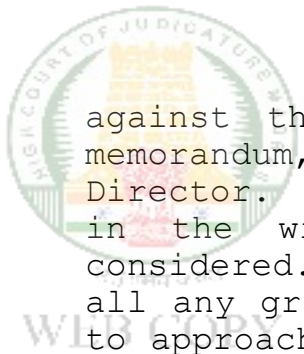
4. Learned Government Advocate appearing on behalf of the respondents disputed the contentions made by the learned Counsel appearing on behalf of the writ petitioner by stating that the charge memorandum dropped against the writ petitioner is one aspect of the matter and again another set of charge memorandum was issued against the writ petitioner. Due to the further charge memorandum, the writ petitioner's name was not considered for promotion to the post of Deputy Director. The said fact has been narrated in paragraph 10 of the counter affidavit, which reads as under:

"10. It is respectfully submitted that the petitioner herein comes under the zone of consideration for the preparation of regular panel for the post of Deputy Director (Administration) in Tamil Nadu General Service for the year 2012-2013 and while the petitioner herein was working as Administrative Officer in the office of the Deputy Director Health Service, Aranthangi, the Deputy Director Health Service, Aranthangi in his charge memo R.No.572/A2/2013, dated 23.02.2013 has framed charges under rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules against the petitioner herein for his dereliction of duties. Hence, his name was not included in the panel for the post of Deputy Director (Administration)."

5. This Court is of the considered opinion that pendency of a charge memorandum is a bar for promotion. The earlier charge memorandum, as per the writ petitioner, had been dropped. He was not considered for promotion due to the further charge memorandum issued in the post of Administrative Officer.

6. Learned Counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner may be permitted to submit a fresh representation if he is exonerated from all the allegations.

7. In this regard, undoubtedly, the petitioner is entitled to submit his representation, if he was exonerated from all the charges. Then his case can be considered by the authorities in accordance with the Rules in force. However, at the time of filing of the writ petition, another set of charge memorandum was pending



against the writ petitioner and on account of the said charge memorandum, his promotion was deferred to the post of Deputy Director. In this view of the matter, the relief as such sought for in the writ petition to grant notional promotion cannot be considered. Accordingly, the Writ Petition stands dismissed. If at all any grievance exists for the writ petitioner, he is at liberty to approach the competent authorities. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (A.E)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SSL

To

1. The Secretary to Government,
Health Department,
Secretariat, Chennai-9.
2. The Director of Public Health
and Preventive Medicine,
Chennai-6.

+1 CC to the SPL GP (SR-19174[F] dated 06/10/2020)

W.P. (MD) No.13484 of 2012
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SCR(CO)
CS(13.10.2020) 3P 4C