



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2020

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.15087 of 2013

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S.Murali Babu

... Petitioner

Vs.

1.The Commissioner of Agriculture Produce
and Secretary to Government,
Chepauk, Chennai - 600 005.

2.The Additional Director of Agriculture,
Office of Commissioner of Agriculture,
Chepauk, Chennai - 600 005.

3.The Joint Director of Agriculture,
Tallakulam, Madurai.

4.R.Viswanathan
Assistant Director of Agriculture,
K.V.Kuppam,
Vellore District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that non-inclusion of the petitioner's name in the promotion list in Pa.apa2/125534/2011, dated 14.06.2012 was illegal due to inordinate delay in declaring punishment and consequently direct the respondents to treat the petitioner as notionally promoted along with others as Assistant Director of Agriculture with right of seniority by placing the petitioner above 4th respondent.

For Petitioner : Mr.N.Sundareshan

For Respondents : Mr.S.Dhayalan
(R1 To R3) Govt.Advocate

For Respondent-4: No Appearance

O R D E R

The Writ of Declaration is filed to declare that non-inclusion of the name of the writ petitioner in the promotion list, dated 14.06.2012, for promotion to the post of Assistant Director of



Agriculture was illegal due to inordinate delay in declaring punishment and consequently, direct the respondents 1 to 3 to treat the petitioner as notionally promoted along with others.

2. The grievances of the writ petitioner is that he was working as an Agriculture Officer and the panel for promotion to the post of Assistant Director of Agriculture was prepared. In view of the fact that there was a delay in disposal in disciplinary proceedings and for imposing punishment, the name of the writ petitioner was unable to be considered and his name was deferred. Thus, he filed the Writ for declaration, to declare that the delay in disposal of disciplinary proceedings is null and void.

3. Such a relief sought for in the present Writ Petition is absolutely misconceived. Pendency of 17(b) charges itself is a bar for promotion. This apart, currency of punishment is also a bar for promotion. The learned Government Advocate appearing on behalf of the Respondents 1 to 3 states that two 17(b) charges were pending against the petitioner. Thus, the claim of the writ petitioner that the delay in disposal of the disciplinary proceedings is the reason for deferring his name is incorrect.

4. The relief cannot be sought for in such a hypothetical manner. The fact remains that the petitioner was facing two 17(b) charges. Administrative delay in disposal of the departmental disciplinary proceedings cannot be a ground to claim retrospective promotion on notional basis. This being the principles to be followed, the very claim set out in the writ petition is not entertainable and accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

To

1.The Commissioner of Agriculture Produce
and Secretary to Government,
Chepauk, Chennai - 600 005.

2.The Additional Director of Agriculture,
Office of Commissioner of Agriculture,
Chepauk, Chennai - 600 005.



3.The Joint Director of Agriculture,
Tallakulam, Madurai.

+1 CC to M/s.SGP (SR-22699[F] dated 24/11/2020)

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MA (CO)

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