



WEB COPY

W.P.(MD)No.18224 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2020

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.18224 of 2015

and

M.P. (MD)No.1 of 2015

U.Renugadevi

... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai.

2.The Director,
Rural Development and Panchayat Raj Department,
Panagal Building,
Saidapet, Chennai-15.

3.The District Collector,
Thoothukudi District,
Thoothukudi.

...Respondents

Prayer: Writ petition filed 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 second respondent in connection with the impugned order of rejection passed by him in his proceedings in Na.Ka.No.72721/2012/G.E.2.1, dated 28.03.2014 and quash the same and consequently, direct the first and second respondents to promote the petitioner as Joint Director for the year 2011-2012 by giving retrospective effect of promotion in the post of Assistant Director for the year 2006-2007 and pay all service and other monetary benefits with the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.P.Mahendran

Additional Government Pleader

ORDER

The rejection of the claim of the writ petitioner for inclusion of her name in the panel and for grant of promotion in proceeding dated 28.03.2014 is under challenge in the present writ petition.

2.The petitioner states that she was appointed as junior assistant on temporary basis and subsequently, their services were regularised. She was promoted to the post of Assistant Director



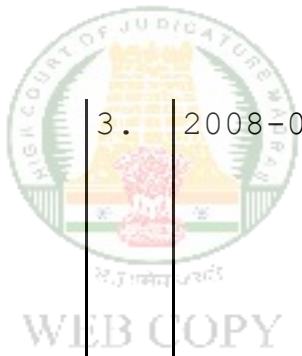
(Audit) and the grievances of the writ petitioner are that she was not promoted to the post of Joint Director in the panel of the year 2011-2012 by giving retrospective promotion in the post of Assistant Director for the year 2006-2007.

3.Her grievances in nutshell as contended by the petitioner is that she is entitled to be promoted as Assistant Director for the year 2006-2007 and Joint Director from the year 2011-2012 with reference to the benefit of retrospective promotion sought for by the petitioner.

4.The counter affidavit filed by the respondents reveals that during the relevant period of time, when the panel was prepared for promotion to the post of Assistant Director, the petitioner was suffering punishment. Thus, she was not eligible during the relevant point of time for promotion. The punishment suffered by the writ petitioner is stated in detail in the counter in Paragraph No.3 which is extracted hereunder:-

3.It is submitted that the contention of the petitioner is not correct since her name could not be included in the panel for the year 2006-07, 2008-09, 2009-10 and 2010-11. The reason is as follows:-

SI. No	Panel Year	Reason for non-inclusion of name in the panel
1.	2006-07	Name of the Block Development Officers upto Seniority No.2813 were alone considered for promotion as Assistant Director of Rural Development as per the panel procedures. (The state level seniority No. of the petitioner in the cadre of Block Development Officer is 304). Hence, her name was not considered for the panel.
2.	2007-08	The petitioner was actually promoted as Block Development Officer with effect from 03.02.2006 and she has not fulfilled two years service qualification in the post of Block Development Officer as per Rule 3, Tamil Nadu Rural Development Service Rules. Hence, she was not fit for inclusion in the panel of Assistant Director of Rural Development for the year 2007-08 vide Government Letter No.21701/E1/2007-3, Rural Development and Panchayat Raj (E1) Department, dated 13.08.2007.



3.	2008-09	Charges framed by the Collector, Thoothukudi District in his charge memo No.V2/66531/2007-1, dated 06.10.2007 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules was pending on the crucial date of 01.03.2008, her name was deferred vide Government Letter No.10361/E1/2008-4, Rural Development and Panchayat Raj (E1) Department, dated 02.06.2008.
4.	2009-10	Since the charges framed by the Collector, Thoothukudi District under Rules 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules was pending on the crucial date of 01.03.2009 her name was deferred, vide Government Letter No.19000/E1/2009-4, Rural Development and Panchayat Raj (E1) Department, dated 29.10.2009.
5.	2010-11	Collector, Thoothukudi District, has awarded a punishment of 'censure' vide his proceeding No.V2/66531/2007, dated 08.02.2010 and the order was served to the individual on 16.02.2010. As the said punishment was on currency (ie.from 16.02.2010 to 15.02.2011) on the crucial date of panel on 01.03.2010, her name was "Passed Over" vide Government Letter No.19022/E1/2010-3, Rural Development and Panchayat Raj (E1) Department, dated 10.08.2010.

5.The currency of punishment is a bar for promotion. In view of the fact the writ petitioner was suffering punishment during the relevant point of time, when the panel was prepared, she is not entitled for retrospective promotion as the said punishment was not quashed and it was in force during the relevant point of time.

6.This being the factum, the benefit of retrospective promotion cannot be granted and accordingly, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

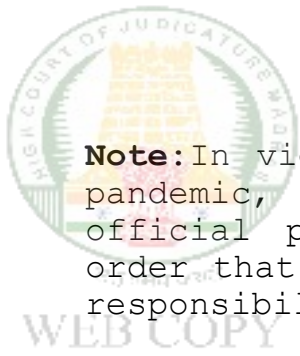
Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Secretary,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai.
- 2.The Director,
Rural Development and Panchayat Raj Department,
Panagal Building,
Saidapet, Chennai-15.
- 3.The District Collector,
Thoothukudi District,
Thoothukudi.

+1 CC to SPL GP (SR-22691[F] dated 24/11/2020)

+1 CC to Mr.G.THALAIMUTHUTHARASU, Advocate (SR-22765[F] dated 26/11/2020)

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VB (03.12.2020) 4P 6C