

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2021

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.36282 of 2006

M.lakshathipathi

... Petitioner

-Vs-

1. The Collector
Tiruvannamalai District
Tiruvannamalai.

2. The Director of Rural Development
Panagal Building, Saidapet
Chennai - 600 015.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to quash the impugned order in Ref.No.Na.Ka.No.11452/98/Pa.A dated 31/8/1998 on the file of the 1st respondent and direct the first respondent to post the petitioner in the promotion post of Deputy Block Development Officer as made by his order dated 12/8/1998 and given in the ref. in para 3-1 above.

For Petitioners : Mr.R.Sundaramurthy

For Respondents : Mrs.R.Bhuvaneswari
Additional Government Pleader

O R D E R

This petition was originally filed as O.A.No.8820 of 1998 before the Tamil Nadu Administrative Tribunal and the same stood transferred to this Court and renumbered as W.P.No.36282 of 2006. The prayer sought for herein is for a Writ of Certiorarified Mandamus to quash the impugned order in Ref.No.Na.Ka.No. 11452/98/Pa.A dated 31/8/1998 on the file of the 1st respondent and direct the first respondent to post the petitioner in the promotion post of Deputy Block Development Officer as made by his order dated 12/8/1998 and given in the ref. in para 3-1 above.

2. That the petitioner was working as Extension Officer at the respondent Department. The next promotional avenue is Deputy Block Development Officer, for which, according to the

petitioner, he was eligible to be considered and it was rightly considered by the respondents by including his name in the panel fit for promotion to the post of Deputy Block Development Officer and accordingly, on 12.08.1998, he was given promotion as Deputy Block Development Officer at Vempakkam Panchayat Union by the proceedings of the first respondent, District Collector. However, subsequently within a span of two weeks, by further proceedings dated 31.08.1998, the very same first respondent has cancelled the promotion given to the petitioner. Therefore, challenging the same, this writ petition was filed.

3. Heard Mr.R.Sundaramurthy, learned counsel for the petitioner, who would submit that, when the petitioner's name was included in the panel fit for promotion to the post of Deputy Block Development Officer and accordingly based on such seniority, he was given promotion by the order of the first respondent dated 12.08.1998, without any plausible reason, within a span of two weeks, the same was cancelled or reversed by order dated 31.08.1998, for which absolutely there is no reason available with the respondents. Therefore, seeking to quash the same and for consequential relief to give promotion to the petitioner by implementing the order dated 12.08.1998, this writ petition has been filed by the petitioner with the aforesaid prayer, he contended.

4. Per contra, Mrs.Bhuvaneswari, learned Additional Government Pleader would submit that, in view of the order of the first respondent dated 12.08.1998, the petitioner was given promotion as Deputy Block Development Officer. However, subsequently only, it was noticed that the petitioner had already suffered with an order of punishment dated 07.02.1996 and during the currency of the punishment, the name of the petitioner was erroneously included in the panel fit for promotion and therefore, the order granting promotion to the petitioner was cancelled by the current proceedings dated 31.08.1998, which is impugned in this writ petition.

5. In this regard, the learned Additional Government Pleader appearing for the respondents has relied upon the following averments made in the counter affidavit filed by the respondents.

" 7) As regards to the averments made in paras 6 (b)(i) & (ii), it is submitted that the name of the applicant Thiru M.Lakshathipathi, Extension Officer (Admn) was included in the panel 1998 for the post of Deputy Block Development Officer as per proceedings No.PA1/11452/98 dated 31.7.98 subsequently he was given promotion as Deputy Block Development Officer at Vembakkam Panchayat Union in Collector, Tiruvannamalai Proceedings No.PA1/17012/98 dated 12.8.98. But while taking into account for the operation of panel, the

punishment of stoppage of increment for 2 years without cumulative effect as ordered in Collector's Proceedings PA1/16623/94 dated 7.2.96 was left out erroneously. But as per the clarification and instructions issued in Govt.Lr.No.248 P&AR Dept., dated 20.10.97, this case was scrutinised again and subsequently his name was ordered to be deleted from the panel of Deputy Block Development Officers by the order of Collector in Proc.No.PA1/11452/98 dated 31.8.98 and in succession to it his posting order already ordered was cancelled in Collector's Proc.No.11452/98/PA1 dated 31.8.98. Hence, his name above ordered to be cancelled for the currency of punishment pending against him."

6. By relying upon the aforesaid averments of the respondents made in the counter affidavit, the learned Additional Government Pleader would contend that, during the currency of the punishment the petitioner was not entitled to get promotion, however mistakenly without noticing the same, since the promotion was given, such an erroneous order had been rectified by cancelling the same by the impugned order. Therefore, the said order is fully sustainable and it does not require any interference from this Court.

7. I have considered the submissions made by the learned counsel for both sides and also have perused the materials placed on record.

8. As has been rightly pointed out by the learned Additional Government Pleader appearing for the respondents, even though the petitioner was considered for promotion and such promotion was given on 12.08.1998, it was not noticed at that time that, there has been a punishment imposed against the petitioner by the first respondent by an order dated 07.02.1996, whereby the punishment of stoppage of increment for two years without cumulative effect was inflicted against the petitioner and therefore, on the crucial date when the petitioner was considered for promotion, certainly there was currency of punishment and this was subsequently only noticed by the first respondent and accordingly the impugned order dated 31.08.1998 was issued, cancelling the promotion given to the petitioner.

9. Therefore, this Court finds no error or infirmity attached with the impugned order, as it is a settled proposition that, during the currency of punishment, no promotion can be given. Therefore, the promotion given to the petitioner dated 12.08.1998 was an order erroneously passed, without noticing the currency of punishment and therefore, the same cannot be given effect to and therefore, the prayer sought for herein by the petitioner to give effect to the said order dated 12.08.1998 by quashing the order dated 31.08.1998

of the first respondent District Collector cannot be granted and in that view of the matter, the writ petition fails and hence it is liable to be dismissed.

10. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Collector,
Tiruvannamalai District,
Tiruvannamalai.
2. The Director of Rural Development,
Panagal Building, Saidapet,
Chennai - 600 015.

+1cc to Government Pleader, SR.no.15441.

PMK (CO)
CSR 25/03/2021

W.P.No.36282 of 2006

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