



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.11.2021

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.4420 of 2013

WEB COPY

D.P.M.Nathan

... Petitioner

vs.

1.The State of Tamil Nadu,
represented by its Secretary to Government,
Finance (Treasury & A-I) Department,
Fort St.George, Chennai - 600 009.

2.The Commissioner,
Treasury & Accounts Department,
Panagal Building,
Saidapet, Chennai - 600 015.

3.The Commissioner for Disciplinary
Proceedings,
Thirunelveli.

4.The Treasury Officer,
District Treasury,
Thirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the first respondent, dated 27.11.2012, (in G.O.(2D)No.115 received by the petitioner on 22.01.2013, quash the same in view of the subsequent G.O.(2D)No.58, dated 04.08.2015) and to direct the respondents to order notional promotion as Assistant Treasury Officer from 2007 and further promotion as Additional Treasury Officer from 2012 till the retirement, dated 28.02.2012 and to pay all monetary benefits and revised pension from March 2012.

(Prayer amended, vide Court order, dated 07.10.2020, in W.M.P.(MD) No.11107 of 2020 in W.P.(MD)No.4420 of 2013)

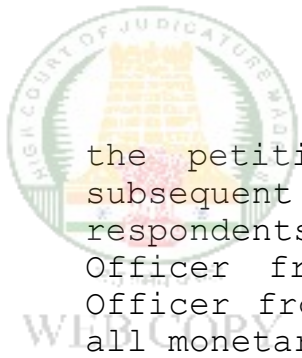
For Petitioner : Mr.K.Vadivelu

For Respondents : Mr.R.Ragavendran

Government Advocate (Civil Side)

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the first respondent, dated 27.11.2012, received by



the petitioner on 22.01.2013, quash the same in view of the subsequent G.O.(2D) No.58, dated 04.08.2015 and to direct the respondents to order notional promotion as Assistant Treasury Officer from 2007 and further promotion as Additional Treasury Officer from 2012 till the retirement, dated 28.02.2012 and to pay all monetary benefits and revised pension from March 2012.

2.The petitioner was working as a Superintendent at District Treasury, Tirunelveli. The petitioner was issued with a charge memo, dated 29.04.2004. The petitioner submitted an explanation on 03.09.2004, denying all charges. An Inquiry Officer was appointed. In the inquiry report, it is stated that the charge 1 was held to be not proved and the charges 2 and 3 were proved. The inquiry report was submitted to the Finance Department on 17.08.2007. For the inquiry report, the petitioner submitted an objection letter, dated 27.09.2007.

3.After examining the inquiry report and the objection letter submitted by the petitioner, the Government issued G.O.(2D)No.141, Finance, dated 08.11.2010, confirming the findings of the Inquiry Officer and punishment of stoppage of increment for one year without cumulative effect was imposed and it is also indicated that it will not affect the pensionary benefits of the individual. The petitioner preferred a Review Petition, dated 27.01.2011 and the Government after consulting with the Tamil Nadu Public Service Commission, has dismissed the Review Petition, vide G.O.(2D)No.115, dated 27.11.2012.

4.The petitioner retired on 28.02.2012. Since the petitioner has retired, the petitioner requested the Government to reconsider and stop the recovery from the petitioner. After considering the petitioner's request, the Government passed G.O.(2D)No.58, dated 04.08.2015 and directed the respondents to deduct Rs.250/- (Rupees Two Hundred and Fifty only) per month for a period of one year.

5. The petitioner has filed the present Writ Petition challenging the G.O. (2D) No.141. Thereafter, amended the prayer of the Writ Petition. In the amendment, the petitioner has prayed to quash the G.O.(2D) No.115, dated 27.11.2012 in view of the subsequent G.O.(2D) No.58, dated 04.08.2015 and to direct the respondents to order notional promotion as Assistant Treasury Officer and further promotion as Additional Treasury Officer from 2012 till the retirement, dated 28.02.2012.

6.Heard Mr.K.Vadivelu, learned Counsel appearing for the petitioner and Mr.R.Ragavendran, learned Government Advocate appearing for the respondents.



7. It is seen from the records that the punishment of stoppage of increment for one year without cumulative effect was imposed through G.O. 141. Thereafter the petitioner filed review petition and through G.O. 115 the review petition was dismissed and the punishment was confirmed. After retirement on 28.02.2012, the petitioner submitted a petition to reconsider the punishment and the government issued G.O. 58 confirming the punishment and to deducted Rs.250/- per month from the pension for a period of one year. Now the petitioner is claiming notional promotion as Assistant Treasury Officer from 2007 and further promotion as Additional Treasury Officer from 2012.

8. The petitioner has not challenged G.O.(2D) No.58, dated 04.08.2015. Under these circumstances, it ought to be seen that whether the petitioner is entitled to notional promotion. The petitioner is seeking notional promotion as Assistant Treasury Officer from 2007 and further promotion as Additional Treasury Officer from 2012. Whether the currency of punishment is there for the year 2007 and 2012 ought to be verified. The learned Counsel appearing for the petitioner submitted that the respondents have not granted Selection Grade to the petitioner, though he has put in more than ten years of service.

9. Considering the submission of the petitioner, this Court directs the respondents to consider the claim of the petitioner in so far as Selection Grade is concerned and grant the same if the petitioner is eligible. As far as the notional promotion is concerned, this Court directs the respondents to consider the claim of the petitioner and grant notional promotion as Assistant Treasury Officer from 2007 and further promotion as Additional Treasury Officer from 2012, if the currency of punishment is not affecting for the year 2007 and 2012. Both the claims shall be considered within a period of twelve weeks from the date of receipt of a copy of this order.

10. Accordingly, the Writ Petition is disposed of with the above direction. No costs.

Sd/-

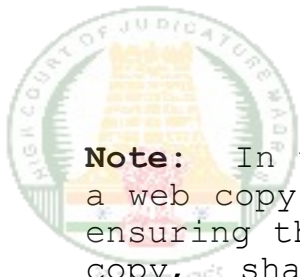
Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

tmg/trp



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.

WEB COPY

To

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4. The Treasury Officer,
District Treasury,
Thirunelveli.

+1 CC to M/s. SPL GP (SR-35892[F] dated 25/11/2021)

+1 CC to M/s. A.S. MUJIBURRAHMAN, Advocate (SR-35790[F] dated 25/11/2021)

W.P. (MD) No. 4420 of 2013
24.11.2021

RD(07.12.2021) 4P 7C