



WEB COPY

W.P(MD)No.5061 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.11.2021

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

W.P(MD)No.5061 of 2020

&

WMP(MD) Nos.9105 & 4387 of 2020

K.Eyalarasan

...Petitioner

..Vs..

1. The Additional Chief Secretary/Commissioner
of Revenue Administration,
Chennai.

2. The District Collector,
Pudukkottai District.

3. The Tahsildar
Alangudi Taluk,
Pudukkottai District.

...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order of the 1st respondent passed in Na.Ka.No.8850/2018/A1 dated 20.02.2020 and 3rd respondent in Na.Ka.Aa4/4776/2018 dated 21.02.2020 and quash the same as illegal.

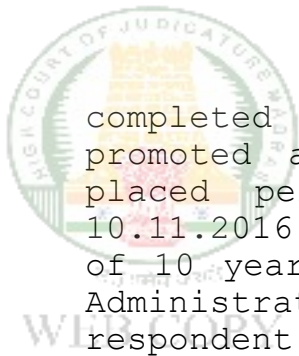
For Petitioner : Mr.Arul Jenifer for
M/s.K.Baalasundharam

For Respondents : Mr.P.T.Thiraviam
Government Advocate.

O R D E R

This writ petition has been filed, praying for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order of the 1st respondent passed in Na.Ka.No.8850/2018/A1 dated 20.02.2020 and 3rd respondent in Na.Ka.Aa4/4776/2018 dated 21.02.2020 and quash the same as illegal.

2. According to the petitioner, he was originally appointed as Village Assistant of Manjaviduthi Revenue village of Alangudi Taluk, Pudukkottai District by the 3rd respondent in the year 1993 and he



completed his probation in the year 1995 and thereafter, he was promoted as Village Administrative Officer along with similarly placed persons vide proceedings of the 2nd respondent dated 10.11.2016 by virtue of G.O.Ms.No.570 dated 26.12.2014 on completion of 10 years of service as Village Assistant. He worked as Village Administrative Officer from 2016 till 2020, while so, the 2nd respondent vide proceedings dated 20.02.2020 impugned in the Writ Petition, reverted the petitioner from the post of Village Administrative Officer to the post of Village Assistant without assigning any valid reason and also relieved him from the said post. Aggrieved by the same, the petitioner has come forward with present Writ Petition.

3. Heard, the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents.

4. The learned counsel appearing for the petitioner submits that the promotion was given to the petitioner as per G.O.Ms.570, Revenue Department dated 26.12.2014 on his completion of 10 years of service in the cadre of Village Assistant and the petitioner has not suppressed anything regarding the pendency of the disciplinary proceedings against him before the Tribunal, however, without providing any opportunity, the 2nd respondent has cancelled the order of promotion and reverted the petitioner to the lower cadre on the ground that there were disciplinary proceedings pending against the petitioner. The learned counsel pointed out that even prior to the enactment of Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the petitioner was promoted and as such, there was no impediment for promoting the petitioner by virtue of the erstwhile service Rules and therefore, the impugned order demoting the petitioner to the lower cadre, is liable to be set aside.

5. Mr. P. T. Thiraviam, learned Government Advocate appearing for the respondents submits that as per Section 47(4) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, any officer against whom charges of allegation of corruption or misconduct are pending on the date of promotion, he cannot be promoted. He further submits that as against the petitioner, already charges were framed by the Tribunal for Disciplinary Proceedings, Trichy vide T.D.P.No.6 of 2010 and the same was pending as on the date of consideration of promotion of the petitioner. However, without noting these disciplinary proceedings, the Department has promoted the petitioner mistakenly and the petitioner also obtained the order of promotion by suppressing the pendency of the disciplinary proceedings before the Tribunal. He also submits that during the enquiry before the Tribunal, the charges levelled against the petitioner were proved and consequently, he was imposed with the punishment of stoppage of increment for seven years. Therefore, the learned Government Advocate submits that the petitioner has rightly been demoted by the 2nd respondent and the same does not warrant any interference.



6.This Court paid its anxious consideration to the submissions made by the learned counsel on either side and also perused the entire materials placed on record.

7.It is not in dispute that even before promoting the petitioner, disciplinary proceedings were pending against him before the Tribunal for Disciplinary Proceedings, Trichy in T.D.P.No.6/2010 and the petitioner also appeared before the Tribunal for enquiry through his counsel on 15.03.2016. Therefore, on the date of promotion, admittedly, disciplinary proceedings were pending against him. Section 47(4) of the Tami Nadu Government Servants (Conditions of Service) Act, 2016 (in short, 'the Act') reads as under:

"47(4) Where it is necessary to promote an officer against whom an enquiry into allegations of corruption or misconduct is pending, but no charge sheet has been filed in the criminal case or where no charge under sub-rule (b) of rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules have been framed or no proceedings before the Tribunal for Disciplinary Proceedings is pending, the appointing authority may promote him temporarily pending enquiry into the allegations against him."

8. The above said Act came into force with effect from 14.09.2016. The petitioner was promoted as Village Administrative Officer on 10.11.2016 based on G.O.Ms.No.570, Revenue Department dated 26.12.2014. He was facing a disciplinary proceedings as on the date of promotion, which culminated into the punishment of stoppage of increment for seven years. If a mere allegation or an enquiry into allegations of corruption or misconduct is pending, then there is no bar for granting promotion. However, disciplinary proceedings was initiated and pending against the petitioner before the Tribunal, as on the date of promotion and therefore, as per Section 47(4) of the Act, the petitioner is not entitled to the promotion and he has been rightly demoted by the 2nd respondent by the order impugned in the Writ Petition.

9.This Court does not find any infirmity in the impugned orders and accordingly, the Writ Petition stands dismissed. No costs. Consequently, consequently, miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

1. The Additional Chief Secretary /
Commissioner of Revenue Administration,
Chennai.

2. The District Collector,
Pudukkottai District.

3. The Tahsildar
Alangudi Taluk,
Pudukkottai District.

+1 CC to M/s.SPL GP (SR-36732[F] dated 01/12/2021)

ORDER MADE IN
W.P (MD) No.5061 of 2020
30.11.2021

PKP/28.03.2022/4P/5C