



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.[MD]No.846 of 2019

V.Visweswaran

: Appellant/Petitioner

Vs.

1.The Director of Handloom and Textiles,
Kuralagam, 2nd Floor,
Chennai-600 108.

2.The Assistant Director of Handloom and Textiles,
Collectorate Complex,
Virudhunagar-626 002.

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the orders dated 20.06.2019, in W.P.[MD] No.9002 of 2015 and quash the orders of the Director of Handlooms and Textiles, Chennai in R.C.No.22330/2014/E3-2, dated 29.01.2015 and direct the first respondent i.e., the Director of Handloom and Textiles, Chennai to include the name of the appellant in the approved list of Handloom Officer of the year 2014-15 according to feeder category seniority, within a stipulated time frame.

Prayer in WP(MD). 9002/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e. Director of Handloom and textiles, Chennai relating to R.C No. 22330/2014/E3-2 dated 29.01.2015 and quash the same in respect of item No. 16 alone and consequently direct the first respondent to include the name of the petitioner in the approved list of Handloom Officers of the year 2014-2015 according to his feeder category seniority within a specified time frame that may be fixed by this Honourable Court.

For Appellant : Mr.S.Visvalingam

For Respondents : Mr.A.K.Manickam

Standing Counsel for Government



JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

We have heard Mr.S.Visvalingam, learned Counsel appearing for the appellant and Mr.A.K.Manickam, learned Standing Counsel for Government appearing for the respondents.

2.This Writ Appeal is directed against the order dated 20.06.2019, in W.P.[MD]No.9002 of 2015.

3.The only issue which falls for consideration in this appeal is whether the appellant's name can be passed over and not included in the panel for promotion to the post of Handloom officer on the ground that a charge memo was issued much after the crucial date. In this regard, it is relevant to note Section 7(1) of the Tamil Nadu Government Servants (Conditions of Service Act), 2016 which reads as follows:

"Mere filing of cases in Courts by the appropriate investigation Authority against a member of service, shall not be a bar for inclusion of his name in the approved list. If specific charges are framed or charge sheet has been filed in the criminal case on the crucial date his name shall not be considered for inclusion in the approved list".

4.In terms of the above provisions, what would be relevant is whether charge proceedings is pending as on the crucial date. According to the appellant, on the crucial date ie., 01.03.2014, there was no charge proceedings pending and charge memo was issued only on 12.01.2015. In the light of Section 7 of the conditions of Service Act, the competent authority who draws the panel for promotion has to consider the case of the candidate based on the said provisions namely, Section 7(1). Therefore, we are not agreeable with the findings rendered by the learned Single Bench in paragraph No.5, by laying down the broad proposition that pendency of charge even after the crucial date would be a bar. In fact, we find that there are no adequate reasons to support such a conclusion apart from the statutory provisions having not been taken note of. Therefore, we are of the view that the decision rendered in the writ petition cannot be taken to be laying down a general legal principal.

5.For the above reasons, the Writ Appeal is allowed and the order passed in the writ petition is set aside. Consequently, there will be a direction to the respondents to consider the candidature of the petitioner by taking note of Section 7(1) and



receipt of a copy of this judgment. However, there shall be no order as to costs.

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Sd/-

Assistant Registrar (CS-II)

/ /2021

Sub Assistant Registrar (CS)

MR

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 Director of Handloom and Textiles,
Kuralagam, 2nd Floor,
Chennai-600 108.

2.The Assistant Director of Handloom and Textiles,
Collectorate Complex,
Virudhunagar-626 002.

+1 CC to MR.S.VISWALINGAM, Advocate (SR-19973[F] dated 23/06/2021)

+1 CC to SPL GP (SR-20141[F] dated 24/06/2021)

JUDGMENT MADE IN
W.A. [MD]No.846 of 2019
22.06.2021

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KM(30.06.2021) 3P 5C