



WEB COPY

W.P.(MD).No.7970 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.7970 of 2014

and

M.P(MD)No.1 of 2014

P. Sathyamoorthy

.. Petitioner

Vs.

1.The Commissioner for Town and
Country Planning,
No.807, Annasalai,
Chennai - 2.

2.The Member Secretary (I/C)
Madurai Local Planning Authority,
Madurai Corporation Office Campus,
III Floor,
Madurai - 625002.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records of the respondents resulting in the first respondent's Impugned Order in Na.Ka.No. 12007/2013/J3 (2) ON 06.02.2014 and quash the same and consequently directing the respondents to give due promotion to the petitioner by including his name in the panel for promotion to the post of Superintendent for the year 2014-2015 and to pay the recovered interest amount of Rs. 9,508/- including all attendant, service benefits and monetary benefits etc.

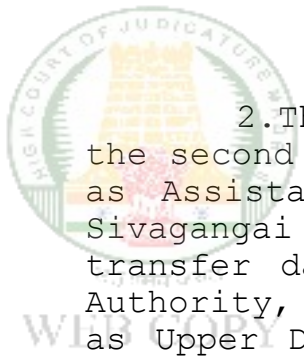
For Petitioner : Mr. V.R. Venkatesan

For R1 : Mr. M.Linga Durai
Government Advocate

For R2 : Mr. R. Karthick Rajan

ORDER

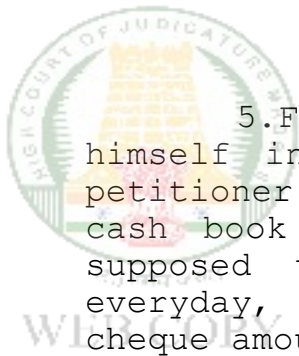
This writ petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of the first respondent in Na.Ka.No. 12007/2013/J3 (2), dated 06.02.2014 and to direct the respondents to give promotion to the petitioner by including his name in the panel to the post of Superintendent for the year 2014-2015 and to pay the amount recovered from the petitioner to the tune of Rs.9508/-.



2.The petitioner joined the post of Typist on 05.06.1990 in the second respondent Corporation. The petitioner was later promoted as Assistant on 29.11.1999. The petitioner was transferred from Sivagangai to Madurai Local Planning Authority, by an order of transfer dated 09.09.2005 and he joined in Madurai Local Planning Authority, on 03.05.2005. The petitioner was subsequently promoted as Upper Division Accountant on 21.02.2009. While the petitioner was working in the Madurai Local Planning Authority, some lapses were found and a charge memo was issued to the petitioner. The charges were relating to the lapses, by which, 14 Demand Drafts drawn in favour of the Planning Authority (to the tune of Rs.99,464/-) was found not credited and that there was a loss by way of interest. From the reading of the explanation submitted by the petitioner, the petitioner has not understood the lapses pointed out against him. It is the case of the Disciplinary Authority that bunch of Cheques, which were received by the local bodies, were deposited by the Department, on 30.01.2009 at State Bank of India, Vinayaga Nagar Branch. Though five cheques for a sum of Rs.3,580/- was realized, remaining 14 cheques were not realized. The petitioner was supposed to maintain the accounts and do the monthly reconciliation has failed to do that and the fact that the amounts were not realized, was not even noticed by the petitioner.

3.The respondents pointed out the lapses on the part of the petitioner, who was supposed to maintain cash book. It is the case of the respondents that the petitioner failed to reconcile the cash book amount and the bank balance. It is the further case of the respondents that the failure of the petitioner to reconcile the cash book balance with that of the bank balance at the end of the month has led to further lapses. As the petitioner was unable to realize the cheque amount within the reasonable time, the Disciplinary Authority imposed the punishment of stoppage of increment for a period of 2 years without cumulative effect. There was a direction to the petitioner to pay a sum of Rs.19,016/- which was calculated as lost by way of interest. The petitioner preferred an appeal before the first respondent and the punishment was reduced to censure instead of stoppage of increment for a period of two years without cumulative effect. As against the said order, the above writ petition is filed by the petitioner.

4.The learned counsel appearing for the petitioner submitted that the transaction took place in the year 2009 and the charge memo was issued only in the year 2013, after a lapse of 5 years. It is contended that the petitioner was transferred in February 2009 and that therefore, the petitioner is not guilty of any charge as framed against him. It is further contended by the learned counsel that the lapses pointed out by the respondents are due to the failure of Bank Officials and that the petitioner cannot be held responsible for the lapses on the part of the employees of the Bank.



5.From the facts narrated and admitted by the petitioner himself in the affidavit, no explanation has been given by the petitioner for his failure to reconcile the Bank account with the cash book maintained by the Department. When the petitioner is supposed to maintain the accounts and reconcile the accounts everyday, the failure has resulted in huge delay in realizing the cheque amounts which were due to the Department in January 2009. For the lapses in the performance of the petitioner, the punishment ultimately is only censure. The punishment against the petitioner is nothing but censure, which is the least punishment that can be given to any Government servant. The petitioner was on duty on 31.01.2009, when the cheques were handed over. Having regard to the nature of misconduct and the punishment, this Court has no reason to interfere with the order of punishment namely censure imposed by the first respondent. Hence, this Writ Petition is devoid of merits and liable to be dismissed. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Sn/Ns

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 Commissioner for Town and
Country Planning,
No.807, Annasalai, Chennai - 2.

2.The Member Secretary (I/C)
Madurai Local Planning Authority,
Madurai Corporation Office Campus,
III Floor, Madurai - 625002.

+1 CC to M/s.R.ANANDHARAJ, Advocate (SR-28238[F] dated 06/09/2021)

+1 CC to M/s.GP (SR-28339[F] dated 07/09/2021)

+1 CC to M/s.V.R.VENKATESAN, Advocate (SR-28474[F] dated 07/09/2021)

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RK (24.09.2021) 3P 6C

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