



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2022

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.NO.27620 OF 2010

B.Anandha Rao

...Petitioner

Vs.

Additional Director General of Prisons,
Egmore, Chennai - 8.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing respondent to promote the petitioner to the post of Personal Assistant, w.e.f. 12.11.2007, the date, on which, petitioner's junior was promoted as Personal Assistant with all consequential and attendant benefits.

For Petitioner : M/S.S.Sriranjini forL
Mr.T.P.Prabakaran

For Respondent : Mrs.E.Ranganayaki
Additional Government Pleader

O R D E R

This Writ Petition is filed by the petitioner for a mandamus, directing the respondent to promote him to the post of Personal Assistant w.e.f. 12.11.2007, till the date on which, his juniors were promoted to the said Post and to grant all consequential attendant benefits.

2. The case of the petitioner is that, disciplinary proceedings were initiated against him, which resulted in a punishment of censure in the year 2006. Grievance of the petitioner is that, when panel for promotion to the post of P.A. was drawn in the month of November, 2007, his immediate juniors were considered for promotion, whereas, his name has been left out. According to the petitioner, at the relevant point of time, when the panel for promotion was drawn, no disciplinary



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proceedings were pending against him. Neither the punishment of censure can have an effect of postponing his promotional avenues in the year 2007-08, and therefore, action of the respondent in not granting promotion to the petitioner, while promoting his juniors is illegal. Aggrieved against such action, the present Writ Petition is filed.

3. Respondent contested the Writ Petition by filing a counter affidavit, wherein, it is mentioned that promotion in the year 2007-08 were not denied to the petitioner on the ground of any disciplinary proceedings pending against him, but by a communication, dated 07.03.2007, addressed to the Additional Director General of Prisons, the respondent herein, it is the petitioner, who has exercised his option to relinquish his right of appointment as P.A. until the date of retirement on superannuation on 31.08.2008. Therefore, based on his relinquishment, he was not granted promotion. But the said fact is suppressed by the petitioner, in the affidavit filed in support of the Writ Petition. A copy of the said letter, dated 07.03.2007, and the subsequent proceedings of Departmental Promotion Committee, which granted promotion to the petitioner's juniors, dated 03.04.2007 are also produced before this Court, in which also, there is a reference to relinquishment made by the petitioner. Therefore, according to the respondent, there is no merit in the Writ Petition.

4. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader for respondent and perused the materials available on record.

5. As rightly pointed out by the learned Additional Government Pleader for respondent, petitioner has given a letter, dated 07.03.2007 prior to the consideration of promotion on 03.04.2007, and therefore, rightly by considering the relinquishment of the petitioner, he was not considered for promotion. However, it is contention of the petitioner in this regard that, mere submission of the letter of relinquishment is not enough to deny promotion, and it should have been acted upon by passing an order/proceedings by the Government.

6. I am unable to accept the contention of the petitioner, for the reason that I do not find any such rule, which mandates the Government to pass such acceptance order as in the case of resignation or voluntary retirement. Rule 47 of Tamil Nadu Subordinate Services Rules does not contemplate passing of an express order accepting the relinquishment. The petitioner, on his own volition, has exercised option of relinquishing his right of appointment as P.A. and the same was taken into consideration by the Selection Committee, and therefore, no exception can be taken for leaving out the petitioner and



granting promotion to his juniors.

7. Accordingly, finding no merit in the Writ Petition, the same stands dismissed. No costs.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sd

To

1 The Additional Director General of Prisons,
Egmore, Chennai - 8.

+1cc to Mr.T.P.Prabakaran, Advocate, S.R.No.26231
+1cc to the Government Pleader, S.R.No.25915

W.P.No.27620 of 2010

GP (CO)
PM/26/05/2022