



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 25.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.S. RAMESH

W.P.NO.21160 OF 2015

K.Mohan

...Petitioner

Vs

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Rural Development & Panchayat Department,
Secretariat, Chennai - 600 009.

2.Commissioner,
Rural Development & Panchayat Department,
Panagal Building, Saidapet,
Chennai - 600 015.

3.District Collector,
Villupuram District,
Villupuram.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 1st respondent in G.O.(D) No.131, Rural Development & Panchayat (E.6) Department, dated 02.03.2015, confirming the order passed by the 2nd respondent in his proceedings No.68047/DPC 2.1 dated 28.01.2011 and the order passed by the 3rd respondent in his proceedings No.PA3/6625/2005 dated 07.02.2007 and quash the same and direct the respondents to promote the petitioner as Deputy Block Development Officer from the date on which juniors were promoted by including his name in the panel year as on 01.03.2008 and confer all the consequential benefits.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.C.Selvaraj,
Additional Government Pleader

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.



2. On certain minor charges of dereliction of duties, the petitioner was served a charge memo dated 20.07.2005 under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules (hereinafter referred to as 'the Rules'). Pursuant to the proved charges, the third respondent herein had imposed a punishment of stoppage of increment for three months without cumulative effect. The appeal filed against the order of the third respondent before the second respondent was also rejected on 28.01.2011. The revision before the Government was rejected on 02.03.2015. As against the punishment order and the orders in appeal and revision, the present writ petition has been filed.

3. Though many grounds have been raised in the writ petition touching upon the merits, the learned counsel for the petitioner submitted that the reason for the delay over and above two months was assigned by the petitioner in his appeal petition dated 10.11.2009, which has not been considered by the second respondent.

4. Rule 27(3) of the Rules empowers the Appellate Authority to withhold an appeal, if it is not preferred within two months from the date on which the appellant was informed of the order appealed against and no reasonable cause is shown for the delay. In the appeal petition, the petitioner had stated that due to the punishment awarded, he had suffered monetary loss for three months and in addition to his name being not considered in the promotional panel for the year 2008-2009, his revision of pay was also affected and his junior has now been promoted above him. Since he has not anticipated these consequences, he had thereafter filed the appeal. This Court is of the view that the reasons assigned by the petitioner seems reasonable, since the punishment was a minor penalty and so also the very charge itself.

5. Rule 27(3) is not a total bar for an appeal that is filed after a period of two months, since the Rule itself gives an alternate to the Appellate Authority to consider any reasonable cause that may be shown in the appeal petition. Since this aspect has not been considered in the impugned order dated 28.01.2011, but has made a statement merely that the appeal is after a period of two months and therefore rejected, this Court is constrained to look into the reason assigned by the petitioner in his appeal petition with regard to the delay.

6. As earlier stated, apparently, the petitioner had accepted the punishment at the first instance, but when his name was not considered in the next year promotion panel and his junior was promoted, he thought it fit to challenge the appeal and thus, there had occurred a delay. The reason assigned by the petitioner for the delay is acceptable.



7. In this background, the impugned order, placing reliance on Rule 27(3) of the Rules and rejecting the petitioner's appeal as barred by limitation, is quashed. Consequently, the matter is remanded back to the second respondent herein for consideration of the petitioner's appeal petition dated 10.11.2009. The second respondent shall consider the same, without reference to the limitation period of two months as prescribed under Rule 27(3), on its own merits and in accordance with law and pass final orders, as expeditiously as possible, in any event, within a period of three (3) months from the date of receipt of a copy of this order.

8. The Writ Petition stands ordered, accordingly. No costs.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

hvk

To

1.The Secretary to Government,
State of Tamil Nadu,
Rural Development & Panchayat Department,
Secretariat, Chennai - 600 009.

2.The Commissioner,
Rural Development & Panchayat Department,
Panagal Building, Saidapet,
Chennai - 600 015.

3.The District Collector,
Villupuram District,
Villupuram.

+1cc to M/s.C.S.Associates, Advocate Sr.No.5320

+1cc to the Government Pleader Sr.No.4904

W.P.No.21160 of 2015

PMK(CO)
RVM(08/02/2022)