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W.P.No.8831 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.8831 of 2018
and W.M.P.No.10700 of 2018

Mr.Rajmohan Raju

... Petitioner

Vs.

1.The Director,
Local Fund Audit Department,
Integrated Complex of Finance Department,
Nandhanam,
Chennai – 35.

2.Joint Director,
Local Fund Audit Department,
Integrated Complex of Finance Department,
Nandhanam,
Chennai – 35.

3.Deputy Director,
Local Fund Audit Department,
Thoothukudi Corporation,
Thoothukudi – 2.

4.The Assistant Director,
Office of the Assistant Director of
Local Fund Audit Department,
2nd Floor, Municipal Building,
Tuticorin – 02.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with findings of the enquiry officer/4th respondent in Na.Ka.No.A1/1373/2012 dated 09.08.2014 and the subsequent punishment passed by 2nd respondent Joint Director dated 08.01.2015 in Na.Ka.No.8243/Om1/2013 and rejection order of appeal passed by 1st respondent Director in Na.Ka.No.8243/OM-1/2013 dated 06.12.2017 quash the same, consequently direct the respondents herein to include the name of the petitioner in the promotional panel list for Assistant Inspector being prepared by the respondent department.

For Respondents : M/s.C. Meera Arumugam,
Additional Government Pleader

ORDER

Mr.Prasanth, learned Advocate, has filed a memo dated 08.12.2022 stating that they have already given a change of vakalat and they are no longer representing the petitioner.

2. Heard the learned Additional Government Pleader appearing for the respondents.



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3. As against the levelled charges against the petitioner, an inquiry was conducted and through an order dated 08.01.2015, the second respondent herein, had imposed a punishment under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, of stoppage of increment for a period of 3 months without cumulative effect. Under Rule 27(3) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the petitioner is required to file an appeal against the said punishment order, within a period of 60 days. However, he had belatedly filed an appeal after 2 years before the first respondent herein, which came to be rejected on the ground of limitation. Apparently, the appeal has been filed after the punishment imposed on him, was implemented. When the rules required the delinquent to prefer an appeal within 60 days, a belated filing of the appeal cannot be entertained by the Appellate Authority and hence, there is no illegality in the order of the Appellate Authority.

4. Insofar as the punishment of stoppage of increment for a period of 3 months without cumulative effect, is concerned, the grounds raised in the present Writ Petition urges upon only factual aspects which touches upon the charges of dereliction of duty. Such factual aspect requires to be



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considered only by the Appellate Authority, had the petitioner preferred the appeal in time. Furthermore, this Court exercising its power under Article 226 of the Constitution of India, cannot be justified in re-appreciating the facts and evidences before the Inquiry Officer, as I do not find any illegality or any other reason to hold the impugned order of punishment as vitiated. In the absence of the same, the grounds raised by the petitioner does not require interference.

5. Accordingly, the Writ Petition stands dismissed. No costs.

Connected miscellaneous petition is closed.

08.12.2022

Speaking/Non-speaking order

Index : Yes/No

Internet: Yes/No

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M.S.RAMESH,J.

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