IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.7553 OF 2015

G.Prakasam ...Petitioner

Vs

1.The State of Tamilnadu,
Rep. by its Principal cum Chief
Secretary to Government,
Public (Special A) Department,
Secretariat, Chennai - 9.

2.The Secretary to Government,
Revenue Department,
Secretariat, Chennai - 9.

3.The Commissioner of
Revenue Administration,
Chepauk, Chennai - 5.

4.The Managing Director,
Tamil Nadu Civil Supply Corporation,
Kilpauk, Chennai - 10. ...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the 1st respondent in letter No.1926/A4/2007-5 Public (Special-A) Department, dated 17.03.2008 and the consequential G.O Rt.No.3774 Public (Special-A) Department dated 25.10.2013 and quash the same and direct the 1st respondent to promote the petitioner to the post of District Revenue Officer on par with the petitioner's juniors who was promoted on 2000 and grant consequential service and monetary benefits.

For Petitioner	:	Mr.Sethupandian for Mr.V.Sukumar
For R1 to R3	:	Mr.E.Veda Bagath Singha, Special Government Pleader
For R4	:	Mr.C.Munusamy

ORDER

The petitioner herein is aggrieved against the non-inclusion of his name in the panel for promotion to the post of District Revenue Officers. The case of the petitioner is that, while he was serving as a Deputy Collector, certain charges came to be framed under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Pursuant to an enquiry, he was imposed with a punishment of stoppage of increment for 6 months without cumulative effect, on 31.12.2002.

2. When the petitioner's name was not included in the panel of District Revenue Officers for the year 2000, he had challenged the punishment before this Court and by order dated 05.09.2006 passed in W.P.No.3558 of 2004, the Hon'ble Division, while confirming the punishment, had directed the respondents to consider his name for promotion to the post of District Revenue Officer in the panel for the year 2000. The relevant portion of the order reads as follows:-

> "10. Therefore, as per the above said guidelines also, as stated earlier, the charges framed against the petitioner would not come under Rule 17(b), but only under Rule 17(a). However, since the petitioner was imposed punishment on framing charges under Rule 17(b) which is a bar for consideration of promotion, he has been deprived of the promotion to the next cadre. Therefore, we are of the view that the charges should have been framed under Rule 17(a) and not under Rule 17(b). Therefore, in view of the Guidelines as stated in Letter No.248 issued by the Government of Tamil Nadu, dated 20.10.1997 which have been reconsolidated in the recent Letter No.1882/S/2005-2, dated 7.10.2005 issued by the Government of Tamil Nadu, the claim of the petitioner can be considered for further promotion. In identical circumstances, the Division Bench of this Court had an occasion to deal with the similar issue with regard to framing of Charges under Rule 17 (a) and 17(b) following the above said Guidelines, and by its order, dated 7.12.2004 in W.P.No.19144 of 2004, has taken similar view that the Disciplinary Authority, while issuing charge memo, was required to keep in mind the guidelines for framing charges either under Rule 17(a) or under Rule 17(b).
>
> 11. Following the same, we are of the view that since the allegations levelled against the

> petitioner were not serious in nature besides since the proved allegations are not minor in nature, only minor punishment can be imposed. As such the claim of the petitioner to the post of District Revenue Officer can be considered by the first respondent on par with his juniors and to his extent, the second limb of the prayer of the petitioner sought for in this Writ Petition is allowed.
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> 12. In the result, the Writ Petition is partly allowed. The order, dated 31.12.2002 passed by the first respondent in G.O. (D) No.584 is confirmed. The first respondent is directed to consider the claim of the petitioner for promotion to the post of District Revenue Officer if he is otherwise eligible on par with his juniors. No costs."

3. When the petitioner had made a request for grant of notional promotion on par with his juniors in the panel of District Revenue Officers for the year 2000, the same was rejected through the impugned order dated 17.03.2008, by quoting the pendency of the charges and currency of punishment, as well as the subsequent charges that were framed.

4. The learned counsel for the petitioner would submit that in view of the order of the Hon'ble Division Bench dated 05.09.2006, he would be entitled for notional promotion to the post of District Revenue Officer in the panel for the year 2000.

5. The learned Special Government Pleader appearing for the respondents 1 to 3 places reliances on the averments made in the impugned orders and submit that when the panel of District Revenue Officers was drawn for the years 2000, 2001 and 2002, the charges were pending and during the crucial date in the panel for the year 2003, he was undergoing the punishment of stoppage of increment and therefore, his name was not included. Subsequently, when his name was again included for the years 2004 and 2005 panels, he had earned another punishment of stoppage of increment of 3 months without cumulative effect and thus was not fit for inclusion in these panels.

6. I am not in agreement with the stand taken by the Government in the impugned orders. When the Hon'ble Division Bench of this Court had already passed orders on 05.09.2006, by confirming the punishment and holding that the respondents were not justified in invoking Rule 17(b) instead of Rule 17(a) and consequently directed them to consider the petitioner's name for notional inclusion in the year 2000 panel, there was a duty cast on them to have granted such notional promotion to the post of

District Revenue Officer in the year 2000 panel itself on par with the petitioner's immediate juniors.

7. Having failed to do so, it is not now open to the respondents to quote the earlier charge memo dated 16.02.1999, which was the subject matter before the Hon'ble Division Bench, wherein it was held that the punishment under Rule 17(b), though could be sustainable, cannot be quoted as an impediment for inclusion of his name in the promotional panel. The same analogy adopted by the Hon'ble Division Bench in its order dated 05.09.2006, would be squarely applicable to the subsequent charge framed on 15.07.2002 under Rule 17(b) also. Thus, the reason adopted by the Government in declining promotion to the petitioner to the post of District Revenue Officer from the year 2000 onwards, may not be correct.

8. For all the foregoing reasons, the impugned orders dated 17.03.2008 and 25.10.2013, are quashed. Consequently, there shall be a direction to the first respondent herein to notionally promote the petitioner to the post of District Revenue Officer on par with his immediate juniors, who were promoted in the panel for the year 2000, and consequently grant all service and monetary benefits, including the pensionary benefits. Such an order shall be passed by the Government, atleast within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. The Writ Petition stands allowed, accordingly. No costs.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

hvk

To:

1.The Principal cum Chief
Secretary to Government,
Public (Special A) Department,
Secretariat, Chennai - 9.

2.The Secretary to Government,
Revenue Department,
Secretariat, Chennai - 9.

3.The Commissioner of
Revenue Administration,
Chepauk, Chennai - 5.

4.The Managing Director,
Tamil Nadu Civil Supply Corporation,
Kilpauk, Chennai - 10.

+1cc to Mr.V.Sukumar, Advocate Sr.No.5960

+1cc to the Government Pleader Sr.No.6464

W.P.No.7553 of 2015

PL(CO)
RVM(17/02/2022)