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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19176 of 2014

K.Balasubramanian

...Petitioner

Vs.

1.The Principal Secretary to Government,  
Health and Family Welfare Department,  
Secretariat,  
St.George Fort,  
Chennai - 600 009.

2.The Director,  
Directorate of Family Welfare,  
359, Anna Salai,  
Teynampet,  
Chennai - 600 018.

3.The Director,  
Directorate of Public Health and  
Preventive Medicine,  
D.M.S.Compass,  
359, Anna Salai,  
Teynampet,  
Chennai - 600 018.

4.The Deputy Director of Medical and Rural Health  
Services, O/o. District Family Welfare Bureau,  
Kanchipuram. ...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records in G.O.(D) No. 369 dated 30.4.2010 and vide letter No. 25427/AA2/2010-1 dated 15.4.2011 on the file of the 1<sup>st</sup> respondent and Ref.No.10149/FW/OPI/2010 dated 1.12.2011 on the file of the 2<sup>nd</sup> respondent herein and quash the same and consequently direct the 1<sup>st</sup> and 2<sup>nd</sup> respondent to give due promotions of the petitioner and to pay the monetary benefits.



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For Petitioner : Mr.T.Sellapandian

For Respondents : Mr.M.Bindran  
[For R1 to R4] Additional Government Pleader

#### ORDER

The order of rejection, rejecting the claim of the writ petitioner for grant of Selection Grade is under challenge in the present writ petition.

2. The writ petitioner was appointed as store-keeper under Rule 10(a)(1) of Tamil Nadu State and Sub-ordinate service rules. Subsequently, he was brought under regular establishment. A charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules was issued against the writ petitioner with reference to the allegation of misappropriation and the charge against the petitioner was dereliction of duty and having not brought to the notice of the medical officer regarding the false claim made by one Mr.G.Esakkimuthu, the Departmental disciplinary proceedings continued against the writ petitioner and an order of punishment was imposed on 30.04.2010, imposing the punishment of cut in pension for Rs.250/- per month for a period of two years. Thus, the departmental disciplinary proceedings ended with the order of punishment.

3. The learned counsel for the petitioner mainly contended that the services rendered by the writ petitioner cannot be taken away for the purpose of grant of Selection Grade and more so, the petitioner had already completed more than 10 years of service in a particular cadre and therefore, he is entitled for Selection Grade and consequently, revision of pay and arrears of terminal benefits.

4. The learned Additional Government Pleader appearing on behalf of the respondents objected the said contentions by stating that during the relevant point of time, the benefit of Selection Grade was not granted on account of pendency of disciplinary proceedings initiated under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. However, the departmental disciplinary proceedings ended with an order of punishment and the said punishment reached finality and thus, the petitioner is not entitled for the benefit of Selection Grade.



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5. This Court is of the considered opinion that only if the order of punishment is set aside or the petitioner is exonerated from the charges, then alone, he would be eligible for the benefit of Selection Grade, but not otherwise.

6. In the present case, the benefit of Selection Grade was not granted during the relevant point of time, since the Departmental disciplinary proceedings were pending against the writ petitioner. However, the proceedings ended with an order of punishment and thus, the petitioner is not entitled to claim the benefit of Selection Grade. The Rules applicable for grant of promotions are to be applied for the purpose of grant of Selection Grade also as the Selection Grade pay is granted equivalent to that of the pay of the higher post and thus, the reasons furnished for rejection of the claim of the writ petitioner is in consonance with the rules in force and there is no infirmity as such.

7. Accordingly, the writ petition stands dismissed. No costs.

s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

1.The Principal Secretary to Government,  
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4.The Deputy Director of Medical and Rural Health  
Services,  
O/o. District Family Welfare Bureau,  
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+1cc to the Government Pleader Sr.39329

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