



W.A.No.2651 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.12.2022

Coram:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.2651 of 2022
and
C.M.P.No.21252 of 2022
--

1. The Additional Chief Secretary,
Commissioner of Revenue Administration,
Chepauk, Chennai-5.
2. The District Collector,
Tiruvannamalai.
3. The District Revenue Officer,
Tiruvannamalai.
4. The Revenue Divisional Officer,
Tiruvannamalai.

.. Appellants

Vs.

1. A.Valli
2. K.Amsaveni
Senior Revenue Inspector,
Taluk Office,
Vandavasi Taluk,
Tiruvannamalai District.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 09.12.2021 passed in Writ Petition No.24964 of 2021 by the learned



W.A.No.2651 of 2022

Single Judge of this Court.

WEB COPY

Writ Petition No.24964 of 2021 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the third respondent in his proceedings Na.Ka.A2/407/2019, dated 03.07.2019 in respect of non-inclusion of petitioner's name in the panel of Assistants for the year 2019 and to quash the same and consequently direct the third respondent to include the petitioner's name in Sl.No.1 above K.Amsaveni in the panel of Assistants drawn for the year 2019.

For appellant : Mrs.V.Yamunadevi, Spl.G.P.

For respondents: Mr.S.Vijayakumar

JUDGMENT

The present Writ Appeal has been filed questioning the impugned order passed by the learned Single Judge in W.P.No.24964 of 2021, dated 09.12.2021.

2. The sum and substance of the issue on hand is as to whether the first respondent/writ petitioner was eligible to be considered for inclusion in the panel. The crucial date for promotion was on 15.03.2019. The first respondent/writ petitioner is now facing charge memo, dated 23.05.2016 under the Tamil Nadu Civil Services (Discipline and Appeal) Rules, on the ground that

Page No.2/8



W.A.No.2651 of 2022

there was a demand of bribe. After detailed enquiry, the punishment of stoppage of increment for a period of six months, was imposed. Even though the first respondent/petitioner has contended that there was a second enquiry, which ought not to have been initiated, the factum that the money was demanded as a part of the Flag Day collection, was not appreciated, but the punishment imposed, namely stoppage of increment for a period of six months without cumulative effect, by proceedings dated 25.04.2018, which was affirmed by the appellate authority, was confirmed.

3. Though the Writ Petition was filed before this Court, in the meantime, the panel was drawn by proceedings dated 29.06.2018 and the petitioner's name did not find place therein. Subsequently, another panel was drawn on 03.07.2019, by which 35 persons have been considered for promotion to the post of Assistant and the petitioner was overlooked, which necessitated her to approach the Writ Court for redressal of her grievances.

4. The learned Single Judge, after taking note of the submissions of the learned counsel appearing for the parties and referring to the Rule position relating to Clauses 12 and 17, Part-A of Schedule-XI (relating to Section 7) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which is



W.A.No.2651 of 2022

extracted below,

WEB COPY

"Clause 12: A member of service whose name has not been included in the approved list for a punishment shall not be overlooked in the subsequent years' list for the same punishment or punishments, provided the member of service is not undergoing any punishment on the crucial date for preparation of approved list.

Clause 17: Any punishment imposed on a member of service under Rule 8 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, shall take effect from the date on which the said punishment order is served to the member of service concerned and the name of such member of service shall not be considered for inclusion in the approved list until the said punishment is over."

came to the conclusion that the punishment that was imposed on 25.04.2019 had expired on 25.10.2018 and that the first respondent/writ petitioner's name should have been included in the panel drawn on 02.07.2019, as on the crucial date to be considered for promotion being 25.10.2018, the first respondent/writ petitioner became eligible, as there was no punishment/disciplinary action pending against her.

Page No.4/8



W.A.No.2651 of 2022

WEB COPY

5. The learned Single Judge has held that taking note of the factual position that the punishment imposed on the first respondent/writ petitioner came to an end on 25.10.2018 and when the subsequent panel was drawn for the year 2019 on 03.07.2019, the first respondent/writ petitioner was not facing any disciplinary proceedings or punishment overlooking her claim, cannot be countenanced.

6. As rightly held by the learned Single Judge that merely because the first respondent/writ petitioner was punished earlier in the year 2018, the same cannot be continuously held against her for the subsequent panel as well. When once the currency of punishment is over as early as in October 2018 itself and that, on the date, i.e. on 15.03.2019, the first respondent/writ petitioner was found eligible, we are of the view that the impugned order of the learned Single Judge in setting aside the proceedings dated 03.07.2019, insofar as the first respondent/writ petitioner is concerned, for non-inclusion of her name in the panel, and placing the first respondent/writ petitioner above the second respondent/K.Amsaveni, who was the appellant's immediate junior, to grant promotion with all other benefits, does not call for any interference by us.



W.A.No.2651 of 2022

7. When a person is eligible to be considered for promotion when no disciplinary proceedings or punishment is in vogue, depriving the person of his opportunity for promotion, would amount to another punishment, which we are of the view, cannot be countenanced.

8. With the above observations, the Writ Appeal is dismissed, and as the time granted by the learned Single Judge to comply with the order of the Writ Court, is yet to expire, the appellants/State is granted time till 31.03.2023 to comply with the impugned order passed by the learned Single Judge.

9. There shall be no order as to costs. Consequently, C.M.P. is closed.

(S.V.N., J) (M.S.Q., J)

09.12.2022

Index: Yes

Speaking Order: Yes

CS

Page No.6/8



W.A.No.2651 of 2022

WEB COPY

- To
1. The Additional Chief Secretary,
Commissioner of Revenue Administration,
Chepauk, Chennai-5.
 2. The District Collector,
Tiruvannamalai.
 3. The District Revenue Officer,
Tiruvannamalai.
 4. The Revenue Divisional Officer,
Tiruvannamalai.



WEB COPY



W.A.No.2651 of 2022

S.VAIDYANATHAN, J

and

MOHAMMED SHAFFIQ, J

CS

W.A.No.2651 of 2022

09.12.2022

Page No.8/8