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W.P.No.3447 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.3447 of 2020 and
W.M.P.No.4017 of 2020

M.T.Manickam

... Petitioner

Vs.

1.The Secretary to Government,
Revenue (Pani.4(2)) Department,
Fort St George, Chennai - 9.

2.The District Collector,
Kancheepuram District.

3.The Assistant Director of Survey
& Land Records,
Kancheepuram District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to consider the claim of the petitioner for promotion as Sub-Inspector of Survey without reference to the pending disciplinary proceedings issued by the 1st respondent in Letter No.40409/Pani.4(2)/2015-6 dated 05.05.2016 and as well as pending criminal case in Special CC No.6/2015 on the file of Chief Judicial Magistrate, Kancheepuram and promote the petitioner temporarily as Sub-Inspector of Survey and further direct the respondents to superannuate him from service on reaching the age of superannuation without prejudice to the above pending proceedings and grant him all consequential service and monetary benefits.



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For Petitioner : Mr.K.Venkataramani, Senior Counsel for
Mr.M.Muthappan
For Respondents : Mr.T.Chezhiyan, AGP

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus, to direct the respondents to consider the claim of the petitioner for promotion as Sub-Inspector of Survey without reference to the pending disciplinary proceedings issued by the 1st respondent in Letter No.40409/Pani.4(2)/2015-6 dated 05.05.2016 and as well as pending criminal case in Special CC No.6/2015 on the file of Chief Judicial Magistrate, Kancheepuram and promote the petitioner temporarily as Sub-Inspector of Survey and further direct the respondents to superannuate him from service on reaching the age of superannuation without prejudice to the above pending proceedings and grant him all consequential service and monetary benefits.

2. Heard Mr.K.Venkataramani, learned Senior Counsel for the petitioner and Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents.



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3. The petitioner who had attained the age of superannuation was not allowed to retire in view of the pending disciplinary proceedings and criminal proceedings in C.C.No.6 of 2015 on the file of Chief Judicial Magistrate, Kancheepuram. Pending such proceedings, the petitioner has filed this Writ Petition seeking promotion and given with the attendant benefits.

4. However, it was vigorously objected by the learned Additional Government Pleader that the petitioner cannot be considered for promotion when the disciplinary and criminal proceedings are pending. It is further submitted that during the pendency of disciplinary and criminal proceedings, no promotion can be given since it is barred under Sub Section II(8), Part A of Schedule XI under Section 7 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

5. The learned Senior Counsel for the petitioner submitted that in the pending criminal case, out of 39 witnesses, 20 witnesses have already been examined and there is a likelihood for disposal of the trial itself shortly.



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6. Considering the same and also taking into consideration of the rule which would bar the promotion due to the pending criminal and disciplinary proceedings, this Writ Petition is disposed. However, depending upon the outcome of the criminal and disciplinary proceedings, the petitioner can re-agitate his entitlement for promotion if it is not granted by the respondents, even if the proceedings end in his favour.

7. In the result, this Writ Petition is disposed with an observation that the petitioner is entitled to re-agitate his entitlement for promotion, if it is not granted by the respondents despite the pending criminal and disciplinary proceedings end in his favour. Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes

Internet : Yes/No

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To

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R.N.MANJULA, J.

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