



W.P.No.10892 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.10892 of 2018

and

W.M.P.Nos.12826 of 2018 & 6031 of 2021

K.Anbalagan

...Petitioner

Vs

- 1.The Director,
Public Health and Preventive
Medicine Department,
Teynampet, Chennai - 600006.
- 2.The Commissioner,
The Food Safety and Drug
Administration Department,
Chennai - 600006.
- 3.Deputy Director,
Health Service Department,
Thiruvallur District.
- 4.The Block Medical Officer,
Government Primary Health Centre,
Periyapalayam,
Thiruvallur District.



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5.The Medical Officer,
The Government Primary Health Centre,
Enambakkam,
Thiruvallur District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records, relating to the order of the 1st respondent in R.No.108352/MP1/2017/S3 dated 23.01.2018, quash the same and consequently, direct the 1st respondent to promote the petitioner as Health Inspector Grade-I with retrospective effect from 29.03.2012 and accord all consequential and monetary benefits including seniority within a reasonable time period.

For Petitioner : Mr.L.G.Sahadevan
for Mr.E.Sathiyaraj

For Respondents : Mr.M.Shahjahan,
Special Government Pleader

ORDER

Heard Mr.L.G.Sahadevan, learned counsel for the petitioner and Mr.M.Shahjahan, learned Special Government Pleader appearing for the respondents.

2. The grievance of the petitioner is that when the respondents had



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prepared a promotional panel for the post of Health Inspector Grade-I for the year 2012-2013, his name was not considered and therefore, seeks for notional promotion for the said post.

3. The petitioner was originally appointed as Health Inspector Grade-II on 14.11.2006 and his services were regularized on 03.04.2009. On 20.03.2012, the first respondent had prepared the approved promotional panel for the post of Health Inspector Grade-I for the panel year 2012-2013 by including 600 persons, out of which, 548 Health Inspectors Grade-II were declared as eligible for promotion and in the remaining, 25 individuals were deferred due to pendency of disciplinary proceedings and 27 Health Inspectors Grade-II were not promoted, since they are working as Food Safety Officers at Food Safety and Drug Administration Department. The petitioner is one among the 27 Health Inspectors Grade-II who was then working as Food Safety Officer. Thereafter, when the petitioner had sought for promotion on par with his juniors in the promotional panel 2012-2013, this Court, by an order passed in W.P.No.23129 of 2017, dated 29.08.2017, had directed the first



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respondent to consider the petitioner's representations, seeking for promotion as Health Inspector Grade-I for the panel year 2012-2013. In consequence to such orders, the present impugned order dated 23.01.2018 has been passed, whereby the petitioner's request was rejected, on the ground that since a criminal case was filed against the petitioner and he was trapped and arrested by the Vigilance and Anti Corruption Department, Vellore, for having demanded and accepted bribe for issuing a license, his name has been deferred in the said panel.

4. The learned counsel for the petitioner submitted that the crucial date for preparation of the promotional panel for the year 2012-2013 was 20.03.2012, whereas the criminal case came to be registered against the petitioner only on 27.05.2013. Since there was no criminal case pending as on the crucial date, he is entitled for promotion on par with his juniors.

5. The learned Special Government Pleader for the respondents placed reliance on the averments in the counter affidavit and submitted that the petitioner's name was deferred, in view of the pendency of the criminal



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proceedings and therefore, there is no infirmity in the impugned order of rejection.

6. The reasoning adopted by the first respondent in the impugned order seems to be a factual mistake. Admittedly, the crucial date for preparation of the promotional panel for the post of Health Inspector Grade-I was 20.03.2012. A copy of the criminal proceedings, in which the petitioner was involved, has been produced before this Court, which evidences that the criminal case was registered on 27.05.2013 in Crime No.11 of 2013 for the petitioner's alleged involvement for the offence under Section 7 of the Prevention of Corruption Act, 1988, wherein, the date of occurrence of the offence is mentioned as 23.05.2013 and 24.05.2013.

7. It is stated by the learned counsel for the petitioner that there are no other criminal cases registered against the petitioner on the crucial date of preparation of promotional panel. The respondents, in their counter affidavit, have also not referred to any other criminal case except the trap



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case, which is reflected in the FIR in Crime No.11 of 2013.

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8. When, admittedly, the criminal case was registered after the crucial date for preparation of the promotional panel for the year 2012-2013, there is no justification on the part of the respondents in having deferred the petitioner's name in the panel. Consequently, it requires to be held that the petitioner would be entitled for notional promotion on par with his immediate junior.

9. In the result, the impugned order dated 23.01.2018 is quashed. Consequently, there shall be a direction to the first respondent herein to pass appropriate orders, granting notional promotion to the petitioner for the post of Health Inspector Grade-I in the promotional panel for the year 2012-2013 and place his seniority on par with his immediate junior, who was promoted in the said panel, and thereby extend all the service and monetary benefits. Such orders shall be passed by the first respondent, within a period of four weeks from the date of receipt of a copy of this order. Accordingly, the writ petition stands allowed. No costs.



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Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No

Neutral Citation: Yes/No

Speaking order/Non-speaking order

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To

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M.S.RAMESH,J.

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