



W.P.No.2719 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.2719 of 2018

G.Veera Raghavan

.. Petitioner

VS

1.The Secretary to Government
Agriculture Department,
Fort St.George, Chennai – 600 009.

2.The Director of Agriculture,
Chepauk, Chennai – 600 005.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the second respondent in connection with the impugned order passed by him in letter No.Pa.Oo.P1/8501/2008 dated 19.11.2014 and quash the same and direct the respondents to consider the claim of the petitioner for promotion as Assistant Director of Agriculture for the panel year 2006 – 07 or 2007 – 08 and promote him notionally and grant him all consequential service and monetary benefits including the effect on pension within a reasonable time.

For Petitioner : Mr.K.Venkatramani,
Senior Counsel
for Mr.T.Ayngaraprabhu

For Respondents : Mr.U.Baranidharan
Additional Government Pleader



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ORDER

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The writ petition has been filed in the nature of a certiorarified mandamus seeking records of the second respondent, the Director of Agriculture, Chennai in connection with an order passed by him in letter No.Pa.Oo.P1/8501/2008 dated 19.11.2014 and quash the same and direct the respondents to consider the claim of the petitioner for promotion as Assistant Director of Agriculture for the panel year 2006 - 2007 or 2007 - 2008 and promote him with notional effect and grant consequential service and monetary benefits including an effect on pension.

2. The petitioner had joined the services of the Agriculture Department as Deputy Agriculture Officer on 03.07.1978. The post was then re-designated as Agriculture Officer. The petitioner had retired on attaining the age of superannuation on 30.11.2013. The petitioner was eligible for promotion to the post of Assistant Director of Agriculture, Extension in the year 2006 - 2007. However, the petitioner had been issued with a charge memo under Rule 17(b) of TNCS (Discipline and Appeals) Rules on 16.04.1998. That charge memo was kept pending and no effective steps were taken by the respondents pursuant to the charge



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memo.

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3. The respondents had, however, issued another charge memo, quite independent, but under Rule 17(a) of the aforementioned Rules on 21.05.2007. This was proceeded with and a punishment of censure was imposed on the petitioner again on 21.05.2007.

4. In the meanwhile, the petitioner challenged the earlier charge memo issued under Rule 17(b) by filing W.P.(MD).No.481 of 2012 before the Madurai Bench. A learned Single Judge, had, quashed the charges vide order dated 30.07.2013.

5. It is claimed by the learned Senior Counsel on behalf of the petitioner that the respondents had not taken any further steps consequent to that order of the Madurai Bench and had actually, dropped further proceedings consequent to the charge memo issued under Rule 17(b) by issuing G.O.(3D) No.244 Agriculture (VN8) Department dated 29.11.2013. The petitioner was then left only with the punishment of censure which had been imposed on him on 21.05.2017. The petitioner had sought promotion as Assistant Director of Agriculture (Extension) but that had been



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denied. Consequently, the present writ petition has been filed.

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6. In the counter affidavit which had been filed, reliance has been placed on the amendment to General Rule 4(a) of the Tamil Nadu State Subordinate Services issued in G.O.(Ms).No.22 P & AR (S) Department dated 24.02.2014. It had been stated in the said amendment as follows:-

"Any punishment including 'Censure' imposed on a member of service after the crucial date, but before the actual promotion or appointment shall be held against the member of service and he shall not be given promotion or appointment."

7. Learned Additional Government Pleader had stated that, therefore, since the punishment of censure had been imposed on 21.05.2007, the name of the petitioner was deferred for promotion in the panel year 2006 – 2007 since it had been issued after the crucial date of 01.04.2006 but before the date of promotion / 24.12.2017. It is also contended by learned Additional Government Pleader that the name could not be included in the panel 2007 – 2008 since the punishment was in currency on 01.04.2007, which was the crucial date.

8. Learned Senior Counsel for the petitioner, however, placed reliance on Schedule XI of Clause 14 of TN Government



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Servant (Condition of Service Act), 2016 and the same reads as follows:-

the punishment of 'censure' imposed on a member of service within a period of one year preceding the crucial date shall not be held against a member of service, if the delinquency in respect of which such punishment is imposed had occurred prior to five years preceding the crucial date. In such cases the name of the member of service shall be considered for inclusion in the approved list.

9. This issue has to be examined from the following perspective.

10. The punishment of censure was imposed on 21.05.2007. The crucial date for consideration for promotion was 01.04.2006 with respect to the panel 2006 – 2007. The last date for consideration of that panel was 24.12.2007. The punishment had been imposed between 01.04.2006 and 24.12.2007. Therefore, the petitioner could not and should not have been considered for the panel 2006 – 2007. The next promotion opened up on 01.04.2007. On that date, the punishment was in force since it had been issued on 21.05.2007. It was in force for a period of one year, which would be till 20.05.2008. However, the crucial date or rather the last date which the promotion could be given would be of December, 2008 taking the panel of previous year into



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consideration, namely, 24.12.2007. By that time, the punishment of censure had lapsed. So before the panel was closed, the petitioner was entitled for promotion. It would therefore only logically follow that the name of the petitioner should have been included in the panel 2007 – 2008. There was no possibility of the petitioner being included in the panel 2006 – 2007. The claim of the petitioner had been rejected by the impugned order. The impugned order is set aside to the limited extent that the petitioner cannot claim promotion in the panel 2006 – 2007 but was entitled for promotion in the panel 2007 – 2008.

11. Holding as above, the writ petition stands partly allowed. Necessary proceedings to be issued but however it is made clear that the petitioner cannot claim any monetary benefit consequent to this grant of promotion but only the promotion is to be granted notionally and could be counted for the purpose of pension alone. No costs.

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Index:Yes/No
Neutral Citation:Yes/No
ssm



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To

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C.V.KARTHIKEYAN,J.

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