



Writ Appeal No.4319 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 18.10.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE G.ARUL MURUGAN**

**Writ Appeal No.4319 of 2019
and C.M.P.No.27544 of 2019**

1. The Transport Commissioner,
Chepauk, Chennai – 600 005.
2. The Joint Transport Commissioner,
Chepauk, Chennai – 600 005.
3. Regional Transport Officer,
Redhills, Nallur Village,
Chennai – 600 067.

... Appellants

Vs

D.Rajan,
26/19, New Colony,
Kodambakkam High Road,
Nungambakkam,
Chennai – 600 034.

... Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 24.04.2019 made in W.P.No.10444 of 2016.



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For Appellants : Mr.R.Kumaravel
Additional Government Pleader
For Respondent : Mr.P.Ganesan

JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR,J.)

This intra-court appeal has been directed against the order passed by the Writ Court dated 24.04.2019 made in W.P.No.10444 of 2016.

2. The respondent was working as an Assistant in the appellant Department. Subsequently in the year 2012, he has been promoted as Superintendent.

3. While he was working as Superintendent, a charge memo has been issued against four persons including the respondent i.e., two Motor Vehicle Inspectors, one Assistant and one Office Assistant. Enquiry conducted, ultimately Enquiry Officer had given a report stating that charges against one Motor Vehicle Inspector and one Office Assistant were not proved, however, charges against the another Motor Vehicle



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Inspector and the respondent/Assistant were proved. Therefore, a punishment of withholding the increment for three years with cumulative effect was inflicted against the respondent and another Motor Vehicle Inspector in the year 2016.

4. Challenging the said punishment, the respondent filed writ petition in W.P.No.10444 of 2016, where on the ground of competency, the writ petition was allowed by the Writ Court by order dated 31.10.2017. As against the said order passed by the Writ Court, the appellant Department filed intra-court appeal in W.A.No.702 of 2018, where the Division Bench having set aside the order passed by the learned Judge, remitted the matter back for reconsideration. Therefore, the Writ Court once again reconsider the matter and pass final order in W.P.No.10444 of 2016 on 24.04.2019, whereby the Writ Court had allowed the writ petition filed by the respondent/writ petitioner on the ground of competency as well as on merits.

5. Aggrieved over the said order passed by the Writ Court dated 24.04.2019, the present intra-court appeal had been directed.



6. Heard Mr.R.Kumaravel, learned Additional Government Pleader appearing for the appellant Department and Mr.P.Ganesan, learned counsel appearing for the respondent.

7. Without traversing the order impugned passed by the Writ Court on merits, it was submitted by Mr.P.Ganesan, learned counsel appearing for the respondent/employee that between 2016 and 2019 as the punishment was imposed on 05.02.2016, the respondent/writ petitioner had undergone the punishment and the currency of punishment was over by 05.02.2019.

8. He would further submit that, in the meanwhile, in the year 2016 itself, some of the juniors of the respondent had earned further promotion from the category of Superintendent to the post of Motor Vehicle Inspector(Non-Technical). Therefore, if at all during the currency of punishment, which ended on 05.02.2019 the respondent is not entitled to seek for any promotion, atleast after the currency of punishment he should be considered for promotion. In this context, he would further submit that, the next crucial date after the currency of punishment was 01.01.2020. In that panel, certainly the respondent should have been



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included to his promotion for the post of Motor Vehicle Inspector (Non-Technical).

9. The non-inclusion of the respondent name fit for promotion to the post of Motor Vehicle Inspector (Non-Technical) as per the crucial date 01.01.2020 and giving such promotion on permanent basis to the respondent, assuming that the punishment awarded against the respondent is to be accepted, cannot be approved because the respondent would be entitled to get such promotion on regular basis from 01.01.2020 crucial date.

10. In this context, it is to be noted that, on 04.06.2020 the Principal Secretary, Transport Commissioner, who is the authority concerned to give promotion and appointment for the post of Motor Vehicle Inspector (Non-Technical) had considered the name of the respondent and promoted him as Motor Vehicle Inspector (Non-Technical) temporarily. The reason for giving such promotion on temporary basis is that, as against the said order passed by the Writ Court dated 24.04.2019 setting aside the punishment awarded against the respondent, the appellant Department preferred intra-court appeal i.e., the present appeal in W.A.No.4319 of 2019.



11. Heard Mr.R.Kumaravel, learned Additional Government Pleader appearing for the appellant, who would submit that, if that is the stand of the respondent that he has undergone the punishment, therefore after the completion of the currency of punishment, atleast he should be considered for the next promotion i.e., for Motor Vehicle Inspector (Non-Technical) on permanent basis, that could be considered subject to if he is otherwise eligible to be considered on permanent basis.

12. We have considered the said submission made by the learned counsel appearing for both sides.

13. In view of the stand now taken by the respondent through the learned counsel appearing for the respondent that the respondent has already undergone the punishment and therefore, atleast after the completion of the currency of punishment, which ended on 05.02.2019, he should have been considered for the next promotion to the post of Motor Vehicle Inspector (Non-technical) is concerned, we feel that, that kind of plea raised now by the learned counsel for the respondent is to be accepted for the reason that, the punishment awarded against the respondent though has been questioned before the Writ court, which was



allowed in his favour, however since the respondent has undergone the punishment, is not pressing for that challenge as of now, therefore based on the order passed by the Writ Court, which is impugned herein since the respondent has not claimed any benefit and only after completion of currency of punishment as he has undergone the punishment, he is asking the benefit of promotion and a consequential benefit, that can very well be considered by the appellant Department.

14. Resultantly, this writ appeal is disposed of with the following orders:

- ◆ That the impugned judgment for the aforesaid reasons is liable to be set aside and accordingly, it is set aside. As a sequel, since the respondent has undergone the punishment, which was ended on 05.02.2019, thereafter, he is entitled to and fit to be considered for next promotion to the post of Motor Vehicle Inspector (non-technical) by taking the crucial date as 01.01.2020.
- ◆ In this context, since orders have already been passed by the appellant Department on 04.06.2020 promoting the respondent as Motor Vehicle Inspector (non-technical) on temporary basis that shall be treated as permanent promotion since that has been



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considered and granted or extended to the respondent only in the year 2020 i.e., well after the currency of punishment.

- ◆ Therefore, such a revised order making the promotion to the respondent as Motor Vehicle Inspector (non-technical) as permanent shall be passed by the appellant Department within a period of eight (8) weeks from the date of receipt of a copy of this order.
- ◆ It is needless to mention that correspondingly such a permanent promotion order to be passed by the appellant for whatever service benefits accrued on him, for which he is entitled to.

With these directions, this writ appeal is ordered accordingly. No costs. Connected miscellaneous petition is closed.

(R.S.K.,J.)

(G.A.M., J.)

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Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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