IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.29969 of 2019

V. Parthasarathy .. Petitioner

Vs.

1.The Addl. Chief Secretary,
Secretariat,
St. George Fort,
Chennai – 600 009.

2.The Additional Chief Secretary /
Revenue Administrative Commissioner,
Chepauk, Chennai – 600 005.

3.The District Collector
Office of the Collector,
Singaravelar Malligai,
Rajaji Salai, Chennai – 600 001.

4.The District Revenue Officer,
Chennai District,
Singaravelar Maligai,
Rajaji Salai,
Chennai – 600 001.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records of the 1st respondent in G.O (2D) No.124 dated 07.06.2019 Revenue and Disaster Management Unit Service 6(1) Cell and quash the same and direct the 1st to 4th respondents to consider the promotion of the petitioner as the post of Deputy Tahsildar list preferred in 2018.

For Petitioner	.. Mr. V. Parthasarathy, Party-in-Person
For Respondents	.. Mr. S. Ravikumar, SGP

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records of the 1st respondent, the Additional Chief Secretary, Chennai in G.O (2D) No.124 dated 07.06.2019 Revenue and Disaster Management Unit Service 6(1) and quash the same and direct the 1st to 4th respondents to consider the promotion of the petitioner to the post of Deputy Tahsildar list prepared in the year 2018.

2. The petitioner had joined as Junior Assistant in the Revenue Department and from the year 2003 he was discharging his work. He had now retired on attaining the age of superannuation on 30.06.2023. He was

working as Revenue Inspector at Tondiyarpet. He claimed that he had an issue of giddiness and high blood pressure and had to take continuous treatment at Royapettah Government Hospital, Chennai. He took leave from 09.08.2017 to 30.09.2017. He was then transferred during that period of leave to Tamilnadu Urban Development Project – III, Alandur, Chennai. He claimed that he had been discharging duty without any blemish.

3. During his service a charge under Rule 17(a) of Tamilnadu Civil Servant Disciplinary and Appeal was issued to him on 17.05.2018, in which, it was alleged that when he was working as Senior Revenue Officer, on 17.06.2017 and again on 09.07.2017 for those two days, he was absent without intimation. The other charges also surrounded the same aspect that he had absented himself without any explanation or authority. He had given his explanation, but unfortunately, after going through the entire process, the charge against him had been held established and a punishment of censure was passed against him by an order dated 15.09.2018. By no stretch of imagination can anybody come to the conclusion that the said punishment of censure would affect the service of the Government servant. It is only a remark made that the Government servant had committed an act

of irregularity. At the most, it could be in force for a period of one year. Even during that period of one year, the Government servant is kept under watch and if his service is otherwise proper, then the effect of punishment should water down and would be of no effect at all.

4. The grievance of the petitioner is that though he had been charged with being absent for two days namely, 17.06.2017 and 09.07.2017, in the punishment awarding censure, it had been stated that he was absent on 17.06.2017 and 26.06.2017. The petitioner who appeared as party-in-person therefore stated that the order imposing such punishment should be interfered with by this Court.

5. Be that as it may, the necessity for filing the writ petition arose because the petitioner was not considered for promotion in the panel for the year 2018. When that particular panel had opened up the petitioner was suffering the punishment of censure. Even otherwise in the counter affidavit, the learned Special Government Pleader pointed out that when the panel was drawn up for promotion from Revenue Inspector to the Deputy Tahsildar for the year 2018, there were a total number of 42 vacancies,

which were filled up and four vacancies could not be filled up, owing to the non-availability of Scheduled Caste and Scheduled Tribe candidates. It had been contended that the seniority of the petitioner was in SL.No.95 in the combined Inter-se-seniority list in the cadre of Assistant.

6. But there is no explanation given in the counter affidavit, as to why the petitioner was not accommodated in the subsequent panel for the year 2019. By any mathematical calculation, the period of censure would have expired. The punishment of censure was passed on 15.09.2018. Therefore, when the promotion opportunity opened up in the year 2019, the petitioner should have been offered the opportunity of being promoted.

7. The learned Special Government Pleader, however, stated that the petitioner had been absent without any intimation given to the officials. This contention is denied by the petitioner, who stated that he had informed the Tahsildar and had actually given the medical certificate and had also informed the District Revenue Officer about his absence. But there are no records relating to the same.

8. In view of this fact, I am not interfering with the order of punishment, because that has no monetary implication on the petitioner, but I would hold that, if there had been a vacancy for promotion in the year 2019, the petitioner should have been promoted. Necessary proceedings in that regard therefore must be passed by the respondents treating the petitioner as being promoted to the post of Deputy Tashildar, when the promotion panel was drawn up for the year 2019 and accommodate him in the post of Deputy Tahsildar. Since he has retired on superannuation the respondents must grant necessary monetary benefit calculating his position as Deputy Tahsildar from the date of such promotion. Since the petitioner had retired on superannuation, notional promotion alone can be granted. The petitioner is not entitled for any interest on amount paid. Necessary proceedings may be issued by the respondents, within a period of sixteen weeks from the date of receipt of a copy of this order.

9. With the above observation, this Writ Petition stands allowed to that extent. No costs.

26.07.2023

Index:Yes/No
Internet:Yes/No
Neutral Citation:Yes/No
Speaking order: Yes/No
smv

To

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C.V.KARTHIKEYAN,J.

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