



WEB COPY

1/5

W.P.No.28556/2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 16-10-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.28556 of 2023

R.Rajkumar

...

Petitioner

-VS-

The Registrar General,
The High Court of Madras,
Chennai – 104.

...

Respondent

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus directing the respondent to restore the petitioner's seniority in the cadre of District Judge by giving effect to the petitioner's promotion as District Judge with effect from 14.06.2019, namely, the date on which the petitioner's immediate junior Tmt.M.Rajalakshmi was promoted as District Judge by considering the petitioner's representation, dated 20.03.2023, submitted to the respondent and further directing the respondent to release/sanction the one increment which was withheld without cumulative effect with consequential benefits.

For Petitioner : Mr.Sharath Chandran
for Mr.S.Mohan

For Respondent : Mr.B.Vijay

**ORDER**(By *S.Vaidyanathan,J.*)

Petitioner has come forward with this Writ Petition to restore his seniority in the cadre of District Judge. According to him, he was imposed with the punishment of stoppage of one increment without cumulative effect on 10.01.2017 and the punishment period got over. However, his case was not considered for promotion on the ground that he would not be entitled for promotion for a period of five years.

2. Mr.Sharath Chandran, learned counsel for the petitioner, drew the attention of this Court to a decision of a Full Bench of this Court in *The Deputy Inspector General of Police v. V.Rani*, 2011 (3) CTC 129, particularly, Paragraph 28 (1) whereof, which is extracted below, and contended that only during the currency of the punishment, the employee cannot claim right to be promoted and, after the currency of the punishment, he is entitled to be promoted and that barring promotion for a longer period has been held to be bad. Paragraph 28 (1) of the said decision reads as under :

"28. (1) During the period of currency of minor punishment, an employee cannot claim as a matter of right to be promoted to the next category merely on the basis that he is otherwise fit for promotion and to that extent, the finding of the Division Bench in Subramanian v. Government of Tamil Nadu, rep.by its Secretary, Chennai, and Others, 2008 (5) MLJ 350, stands overruled. It is needless to state that after the currency of punishment period, the Government servant is entitled



to be considered for promotion to the next post, if otherwise eligible."

He would also contend that the embargo put on the right of Government servant for being considered for promotion for a further period, after the period of minor punishment is over, in the name of 'check period' viz., one year in the case of censure and five years in the case of other minor punishments is illegal and impermissible under the Statutory Rules.

3. Conversely, learned counsel for the respondent would contend that in terms of Clause 7 of Schedule XI of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, if any punishment is imposed, the case of the person will not be considered for promotion for a period of five years. However, since it is only a representation made to be considered, he would submit that the representation of the petitioner would be placed before the Committee for appropriate decision.

4. Taking note of the above submission, we dispose of this Writ Petition with a direction to the respondent to place the representation of the petitioner, dated 20.03.2023, before the Committee for a decision to be taken thereon at the earliest point of time. No costs.

Index : Yes/No
Internet : Yes/No
dixit

(S.V.N.,J.) (K.R.S.,J.)
16-10-2023



4/5



W.P.No.28550/2023

To

The Registrar General,
The High Court of Madras,
Chennai – 104.



WEB COPY

5/5



W.P.No.28556/2023

S.VAIDYANATHAN,J.
AND
K.RAJASEKAR,J.

dixit

W.P.No.28556 of 2023

16-10-2023