



WEB COPY



W.P.No.33640 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No.33640 of 2022

G.Ramachandran

.. Petitioner

Versus

1. The Hon'ble District Principal Judge,
District Court, Perambalur.

2. The Hon'ble Registrar General,
Madras High Court , Chennai

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to dispose the petitioner's representation dated 03.08.2022 for considering promotion of Junior bailiff.

For Petitioner : Mr. C. Vidhusan
For R2 : Mr. Karthik Ranganathan

ORDER

[Order of the Court was made by R. MAHADEVAN, J.]

Mr.Karthik Ranganathan, learned counsel, takes notice for the second

respondent.

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2. The relief sought for in this writ petition is to direct the first respondent to dispose of his representation dated 03.08.2022 for conferring him promotion to the post of Junior bailiff.

3. According to the petitioner, he was initially appointed as Masalchi in the Judicial Magistrate Court, Jeyankondam on 02.01.2002 in the quota meant for "physically challenged". Subsequently he was promoted as office assistant on 16.11.2011 and posted in Judicial Magistrate Court, Ariyalur. During 2018 the first respondent released the promotion list, in which his name was not included even though he possessed all the requisite qualification for such promotion. On the other hand, the names of his juniors, who have not possessed the requisite qualification, were included and promoted to the post of Junior Bailiff. When the petitioner sought to know the reasons for not including his name in the promotion list by sending representations, a charge memo dated 18.06.2020 was issued to him by the Chief Judicial Magistrate, Perambalur under section 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules alleging that he unauthorisedly absented from duty from 15.09.2019. The petitioner submitted his explanation denying the charges by stating that from 13.05.2019 to 18.05.2020, due to his illness, he had taken homeopathy treatment. To substantiate the same, the



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petitioner has also enclosed medical certificate issued by Vignesh Homeo Clinic. However, Being dissatisfied with the explanation offered, the Judicial Magistrate No.II, Perambalur was appointed as an enquiry officer. After conclusion of enquiry, the enquiry officer submitted his report on 16.10.2020 holding that the charges against the petitioner are proved. The report of the enquiry officer was sent to the petitioner through a notice dated 13.02.2021 and he was called upon to submit his explanation. Accordingly, the petitioner submitted his explanation on 20.12.2021. Thereafter, final order was passed by the Chief Judicial Magistrate, Perambalur on 01.07.2022 imposing the punishment of 'stoppage of periodical increment for a period of two years with cumulative effect.' As against the order dated 01.07.2022, the petitioner submitted an appeal on 03.08.2022, but it was not disposed of, till date. Therefore, this writ petition.

4. The learned counsel for the petitioner submitted that as on the date when the promotion list was prepared on 11.11.2018, there was no currency of punishment pending against the petitioner nor the disciplinary proceedings was sought to be initiated. After promotion was given to the juniors of the petitioner, the charge memo dated 18.06.2020 was issued to the petitioner. As on the date when the panel for promotion was drawn, the name of the petitioner ought to have been included, however, for the reasons



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unknown, his name was excluded. Thus, the imposition of punishment subsequent to the issuance of charge memo cannot be put against the petitioner to deny him promotion. The learned counsel further submitted that the petitioner has also raised all these grounds in the appeal preferred against the order of punishment, but so far, it has not been considered. Therefore, the learned counsel prayed this Court to issue a Mandamus directing the first respondent to dispose of his representation/appeal dated 03.08.2022, within a time frame to be fixed by this court.

5. Considering the limited relief sought for herein, this Court, without going into the merits of the case, directs the first respondent to consider the petitioner's representation dated 03.08.2022, if not already considered, and pass appropriate orders, on merits and in accordance with law, after affording due opportunity of hearing to the petitioner, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6. This Writ Petition is disposed of with the above direction. No costs.

[R.M.D., J.] [M.S.Q., J.]
23.01.2023

Index : Yes / No

Internet : Yes / No

av/rsh

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