



W.P.(MD).No.8940 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.8940 of 2021

and

W.M.P(MD)No.6738 of 2021

T.Ravi

... Petitioner

Vs.

1.The Secretary to Government,
Backward Class, Most Backward Class and
Minority Welfare Department,
Fort St.George,
Chennai-9.

2.The Director,
Backward Class Welfare Department,
Chepauk,
Chennai-5.

3.The District Backward Classes
and Minority Welfare Officer,
Madurai-20.

4.K.Muthiah

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for record relating to the impugned order of promotion was given to the fourth respondent vide proceedings Na.Ka.No.Pi.Na.2/26451/2018 dated 01.08.2019 by the third



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respondent and quash the same as illegal and consequentially direct the respondent 1-3 to promote the petitioner to the post of Graduate Warden based on the panel drawn for the year 2018-2019 on 09.05.2018 by the third respondent within the time frame that may be stipulated by this Court.

For Petitioners : Mr.V.P.Rajan

For R1-R3 : Mr.M.Prakash
Additional Government Pleader

For R4 : Mr.T.Thirumurugan

ORDER

The present writ petition has been filed to call for record relating to the impugned order of promotion was given to the fourth respondent vide proceedings Na.Ka.No.Pi.Na.2/26451/2018 dated 01.08.2019 by the third respondent and quash the same as illegal and consequentially direct the respondent 1-3 to promote the petitioner to the post of Graduate Warden based on the panel drawn for the year 2018-2019 on 09.05.2018 by the third respondent within the time frame that may be stipulated by this Court.

2. The petitioner was appointed as a Cook on 08.03.2013 and was promoted to the post of Secondary Grade Warden on 01.02.2016. The



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Secondary Grade Warden is a feeder category for the next promotion to the post of Graduate Tutor cum Warden. In the year 2018-19, the promotion panel was drawn among the seniority list which is maintained by the 2nd respondent. In the seniority list for the period 2018, the petitioner's name stands in 7th rank and the 4th respondent was placed in 6th rank. Thereafter, when the panel was drawn on 09.05.2018 on the basis of the seniority list, the 4th respondent's name was placed in the 1st rank and the petitioner's name was placed in 2nd rank. It is pertinent to mention here that in the same promotion panel, dated 09.05.2018, it is mandated to submit objections if any to the said promotion panel within a period of 15 days of the date of the said promotion panel. Thereafter, on 01.08.2019, vide impugned order, the 2nd respondent promoted the 4th respondent to the post of Graduate Warden at Veera Perumalpuram Government School Hostel. Challenging the said order of the 4th respondent's promotion, which was passed suppressing the fact that an F.I.R was registered in Crime No.143 of 2016 on the file of the Thirumangalam Taluk Police Station for the offences under Sections 380 and 457 of I.P.C and also the disciplinary proceedings which was conducted as against the 4th respondent under Rule 17(a) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, dated 18.01.2017 vide proceedings Na.Ka.No.22244/17/Pi.Na2, this writ petition



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came to be filed. The 3rd respondent has made the said appointment. Had that information not being suppressed by the competent authority, automatically the petitioner would have been entitled for the said promotion, since pendency of any disciplinary proceedings would disentitle the 4th respondent from seeking such a promotion.

3. However, a perusal of the records would reveal that a criminal case with respect to the missing cooking gas cylinders and some other grocery was registered while the 4th respondent was working as Secondary Grade Warden at Achchampatti. In that regard, a complaint was preferred by the 4th respondent himself, on the basis of which the said F.I.R came to be registered. Further, on the departmental enquiry which was found that the enmity between the 4th respondent and one Cook Saamipillai has resulted in the loss of Government property and the 4th respondent has remitted entire sum of Rs.22,000/- for the purpose of compensating the said loss.

4. The learned Additional Government Pleader submitted that in the year 2018-19, on the availability of vacancies, the panel of Secondary Grade Warden fit for promotion as Graduate Warden was drawn and the 4th



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respondent as well as the petitioner were included in the panel, dated 09.05.2018. The 4th respondent was recruited as Secondary Grade Warden with effect from 06.03.2013 and the petitioner was recruited as Cook in the year 2013 and later, promoted as Secondary Grade Warden in the year 2016. The 4th respondent being a senior, his name was placed over the name of the petitioner in the seniority list and on occurrence of the single vacancy, the 4th respondent was promoted as Graduate Warden vide proceedings of the 3rd respondent on 01.08.2019. Though it has been made clear in the said promotion panel that objection if any, could be raised within a period of 15 days, the petitioner did not come forward to raise his objection before the competent authority within a stipulated period of 15 days. Moreover, as far as the registration of Crime No. 143 of 2016 is concerned, the 4th respondent has already remitted the entire amount of Rs.22,000/- to compensate the loss incurred by the Government and no charge is framed in the said criminal case. Moreover, as per Rule 8 of the Tamil Nadu Civil Servants (Discipline and Appeal) Rules, making payment of loss is only a minor delinquency and will have no bearing in drawal of promotion panel. That apart, disciplinary proceedings in four counts of charges were framed against the 4th respondent under Rule 17 (a) of the Tamil Nadu Government Servants (Discipline and Appeal) Rules which is also not a bar for



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including the name of the 4th respondent in the panel and hence, the impugned promotion order need not be interfered.

5. Considering the submission made by the learned Additional Government Pleader, this Court is inclined to observe that there is no substance in the writ petition filed by the petitioner and concludes that it is not necessary for this Court to interfere in the impugned order, since the same has been passed in consonance to the relevant rules and regulations.

6. With this observation, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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L.VICTORIA GOWRI, J.

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