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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2023

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.10637 of 2023

and

WMP(MD)Nos.9406 & 9407 of 2023

S.Mohanraj

... Petitioner

Vs.

1.The Principal Chief Conservator of Forests,
Panagal Maligai, Chennai.

2.The Chief Conservator of Forests, Trichy.

3.The District Forest Officer,
District Forest Office,
Perambalur District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned order passed by the 1st respondent in his proceedings in Pro.No.N2/28305/2022-3 dated 18.08.2022 which confirming order passed by the 2nd respondent vide his proceedings in Pro.no. 3822/2020/B2-2 dated 28.08.2020 and quash the same as illegal and consequentially direct the 1st respondent to include petitioner's name in the Panel for promotion of the year 2022-2023 to the post of Superintendent with all monetary benefits attached with his service within the time limit that may be stipulated by this Court.



Petitioner : Mr.C.M.Arumugam
For Respondents : Mr.K.Balasubramani,
Special Government Pleader

ORDER

Heard both sides.

2.The petitioner is presently working as Assistant in the Forest Department. He was issued with a notice under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules on 09.01.2020 on the ground that certain registers were not properly maintained. The petitioner offered his explanation that the registers were maintained properly. The third respondent recommended that his explanation can be accepted. But, the second respondent vide order dated 28.08.2020 did not accept the explanation of the petitioner and imposed punishment of stoppage of increment without cumulative effect for a period of six months. Aggrieved by the same, the petitioner filed appeal before the first respondent. The first respondent vide order dated 18.08.2022 rejected the appeal. Challenging the same, this writ petition came to be filed.



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3.The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order.

4.The respondents have filed counter affidavit and the learned Special Government Pleader took me through its contents. The stand of the respondents is that when the authority conducted the inspection, maintenance of the registers by the writ petitioner was found not satisfactory and when the lapse was pointed out, the petitioner had set right the same. The learned Special Government Pleader would argue that this was the reason for taking a lenient view. But then, the fact remains that the disciplinary authority as well as the appellate authority did not accept the same. He therefore pressed dismissal of this writ petition.

5.I carefully considered the rival contentions and went through the materials on record.

6.The second respondent as well as the first respondent have not properly taken note of the materials offered by the third respondent. The



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third respondent had submitted a note that the petitioner's explanation can be accepted and the proceedings itself dropped. I am of the view that while imposing punishment, the disciplinary authority as well as the appellate authority have not taken due note of the same. The second respondent has even gone to the extent of mentioning that the registers were properly maintained by the petitioner. But the fact remains that something was noticed which led the authority to make an endorsement that the maintenance of the registers was not satisfactory. The petitioner is due for promotion to the post of Superintendent. The crucial date is 15.03.2022. The impugned order of punishment will have an impact for a period of five years as per the Schedule XI(11) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. This in my view would act disproportionately for the lapses pointed out during audit. Therefore, the punishment imposed on the petitioner is modified as censure. A censure will act as a bar only for a period of one year. If the punishment is modified, it can be taken that it was imposed only on 28.08.2020. One year period will expire on 28.08.2021. Since the crucial date is 15.03.2022, the punishment imposed on the petitioner will not act as a bar for considering the petitioner's promotion. The impugned order is modified accordingly.



7.This writ petition is partly allowed. No costs. Connected miscellaneous petitions are closed.

27.06.2023

Index : Yes / No
Internet : Yes/ No
SKM

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G.R.SWAMINATHAN, J.

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