



W.P.(MD).No.12853 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.12853 of 2016

and

W.M.P.(MD).Nos.9710 and 9711 of 2016

R.Kumaresan

... Petitioner

Vs.

1.The District Collector,
Thanjavur,
Thanjavur District.

2.The Director of Town Panchayat,
Kuralagam,
Chennai – 600 108.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings issued by the first respondent in Na.Ka.No. 106/10/TP2 dated 06.10.2015 and quash the same and consequently direct the respondents to promote the petitioner as Assistant/Head Clerk/Executive officer Grade II on par with his juniors along with attendant benefits.



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For Petitioner : Mr.S.Ram Sundar Vijayraj,
For C.Jeganathan

For Respondents : Mr.P.Thambidurai,
Government Advocate.

ORDER

This Writ Petition is filed to quash the order dated 06.10.2015 and consequently direct the respondents to promote the petitioner as Assistant/Head Clerk/Executive officer Grade II on par with his juniors along with attendant benefits.

2. The petitioner while he was working as Junior Assistant, a criminal case was registered against him and another namely Saravanan in Crime No.18 of 2010 under Sections 341, 294(b) and 307 of IPC by the Inspector of Police, Kumbakonam West Police Station. Thereafter, the respondents have placed the petitioner under suspension on 10.01.2010. In the meanwhile, the criminal case was taken on file in S.C.No.251 of 2010 before Chief Judicial Magistrate, Kumbakonam and the petitioner was acquitted from the criminal case vide judgment dated 27.07.2011. The respondents have issued charge memo dated 10.01.2010 under Rule 17(e) of the Tamil Nadu Civil Services (Discipline and



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Appeal) Rules and placed the petitioner under suspension. Except the allegation in the criminal case, there was no other charges pending against the petitioner. The respondents proceeded with the charge memo by appointing an enquiry officer and the enquiry officer also held that the charges were not proved. Even though in the criminal case the petitioner was acquitted and the enquiry officer has held that the charges are not proved, the disciplinary authority has imposed the punishment of censure.

3. The contention of the petitioner is that when the enquiry officer has stated that the charges were not proved, the respondents have not issued any notice to deviate from the enquiry report and hence the punishment imposed is violative of principle of natural justice. The counter is also silent about the same which means the respondents have not issued any notice to deviate from the enquiry report. Therefore, the punishment cannot be imposed without proper notice for deviating from the enquiry report and hence the punishment is violative of principles of natural justice.



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4. Therefore, this Court is inclined to quash the impugned order and the impugned order is quashed. The respondents are directed to consider the case of the petitioner for promotion to the post of Assistant, if he is otherwise qualified and also further promotion to other posts. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

5. In view of the above, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

16.06.2023

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



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S.SRIMATHY, J.

Nsr

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