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W.P.No.11755 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 14.12.2023

Pronounced On : 11 .06.2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.11755 of 2015.

G.Raajkumar

... Petitioner

Versus

The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai-600 003.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the respondent to include the petitioner's name in the Panel fit for promotion as Additional Health Officer in the Panel Year of 2013-2014 and consequently promote the petitioner herein as Additional Health Officer with effect from the date on which the petitioner's juniors were given promotion as Additional Health Officer with all monetary and other attendant benefits.

For petitioner ... Mr.K.Raja

For Respondent ... Mr.S.Gopinathan
Standing Counsel



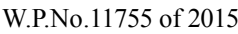
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ORDER

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This Writ Petition is filed seeking direction to the respondent to include the petitioner's name in the Panel fit for promotion as Additional Health Officer in the Panel Year of 2013-2014 and consequently promote the petitioner herein as Additional Health Officer with effect from the date on which the petitioner's juniors were given promotion as Additional Health Officer with all monetary and other attendant benefits.

2. The facts in brief as per the affidavit of the petitioner is that the petitioner acquired MBBS in the year 1989, DPH in the year 1998 and joined in service as Assistant Health Officer on 16.07.1999 through direct recruitment. Recently, the post of Assistant Health Officer has been re-designated as a Zonal Health Officer. A charge memo was framed against the petitioner in the year 2002 and the same was ended in punishment of stoppage of increment for 3 years without cumulative effect vide order dated 04.08.2009. The said period of three years was ended on 04.08.2012. However the name of the petitioner has not been included in the promotion list to the post of Additional Health Officer for the year 2013-2014. The petitioner's name was deleted from the promotion panel list stating that the currency of punishment commenced only on



3. It is submitted by the learned counsel for the petitioner that the
ment of stoppage of increment ought to have been given effect on
e of service of punishment order similar to other punishment of
al from service and the same cannot be deferred until the date of
ent. The 2nd respondent waited for the date of increments and the
ge of increments without cumulative effects of 3 years was contrary
well settled legal proceedings.

4. It is further submitted that one N.A.Senthilnathan who is a senior to the petitioner also lost his opportunity of promotion to the post of Additional Health Officer in the year 2013 to 2014 on the ground that the punishment of stoppage of increment without cumulative effect for a period of three months was imposed vide order dated 15.11.2012 and the



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same was implemented when the increment was started on 01.07.2013, hence the N.A.Senthilnathan has preferred W.P.No.30109 of 2013 challenging his non promotion and the same was allowed vide order dated 04.03.2015. With reference to the above judgment, the petitioner has made a representation to the respondent on 25.03.2015 and the same is still pending. Hence, the petitioner is before this Court by way of this Writ Petition, seeking for suitable direction.

5. The learned counsel for the respondent has filed counter and contended that the petitioner is presently working as an Additional Health Officer in the Regional Office (North), Greater Chennai Corporation. A charge memo dated 24.04.2002 was filed against the petitioner for dereliction in his duties and for not making proper supervision over his lower employees, which led to misappropriation of Corporation fund to the tune of Rs.3,43,220/-. The explanation submitted by the petitioner on 14.06.2002 was refused and punishment of stoppage of increment for 3 years without cumulative effect was ordered on 04.08.2009. The annual increment of the petitioner falls on 1st July of every year, and the above punishment was upto 30.06.2013. It is further submitted that the punishment of stoppage of increment for 3 years, which was in effect



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from 01.07.2010 to 30.06.2013, so the petitioner's name was not included in the promotion list dated 05.11.2013.

6. The crucial date for the panel to the post of Additional Health Officer is on 01.04.2013, and the same was approved by the Council on 26.09.2013 vide Resolution No.705/2013, hence, petitioner's name was not considered for the promotion list due to non-completion of period of punishment.

7. The petitioner was working as Assistant Health Officer which was re-designated as Zonal Health Officer. He was supposed to have been promoted to the post of Additional Health Officer. However, on account of some misconduct, charges were framed against him and an enquiry was taken up and it ultimately ended in imposing a punishment of stoppage of increment for three years as per the orders dated 04.08.2009. Once, an orders have been passed imposing stoppage of increment for a period of three years, the currency period will commence which will be in force for a period of three years.



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8. The petitioner's name should have been considered for promotion for the post of Additional Health Officer in the year 2013-2014, however, the petitioner name is not included in the promotion list, thereby, the petitioner has filed a Writ Petition for suitable direction. It is submitted by the learned counsel for the petitioner that though orders of stoppage of increment for a period of three years was ordered on 04.08.2009, according to petitioner, since the annual increment to the petitioner falls on first July every year, the currency period for the punishment will commence from 01.07.2010 to 30.06.2013 and that the crucial date for considering the petitioner for promotion to the post of Additional Health Officer, is 01.04.2013, the petitioner was not considered. These contention of the respondent is erroneous and against the settled legal proposition.

9. The respondents have not placed any service rule or order which mandates the commencement of currency period from the date of increment and not from the date of punishment. In fact, the currency period shall come into effect from the date of imposing of punishment and not from the date of increment. The currency period will come into effect from the date of punishment, however, the increments will have to be



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stopped is only for three years without cumulative effect. Though punishment is stoppage of increments for a period of three years without cumulative effect, it has to be considered separately, and the commencement of currency period has to be seen separately. The currency period will commence soon after the imposition of punishment which will run for three years irrespective of the fact as to from which date the annual increment of the petitioner falls.

10. Considering the discussions made above, since the punishment was imposed as per the order dated 04.08.2009, the currency period will run for a period of three years and will end by 04.08.2012. Subsequently, the petitioner is entitled to be considered for promotion for the post of Additional Health Officer. According to the respondent, the crucial date for considering the petitioner for promotion to the post of Additional Health Officer, is 01.04.2013, since the currency period will get expired by that time, the petitioner should have been considered for the promotion for the year 2013-2014. A similar view was taken by this Court in W.P.No.30109 of 2013 and the copy of the same was filed before this Court. The petitioner has also filed copy of W.A.No.710 of 2011 dated 03.08.2012 wherein this Court has taken similar view. In view of



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the above, it is clear that the respondent should not have postponed the commencement of punishment from 04.08.2009 to 01.07.2010.

Therefore, the petitioner's name should have been included in the panel for the promotion to the post of Additional Health Officer for the year 2013-14.

11. Accordingly, the Writ Petition is allowed, the respondents are directed to include the name of the petitioner in the panel fit for promotion for the post of Additional Health Officer for the year 2013-2014 and consequently, to promote the petitioner as Additional Health Officer with effect from the date on which the petitioner's junior were given promotion as Additional Health Officer will all monetary and other attendant benefits. No costs.

11.06.2024

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Index: Yes/No

Neutral Citation: Yes/No



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To

The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai-600 003.



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Dr.D.NAGARJUN, J.

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Pre-Delivery Order
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