



Writ Petition No.17183 of 2013

for Mr.V.Vijay Shankar

WEB COPY For respondent

... Ms.C.Sangamithirai
Special Government Pleader

ORDER

This Writ Petition has been filed to quash the order dated 2/2/2013 passed by the respondent in Mu.Mu.No.32898/A2/A5/2012 and consequently, direct the respondent to promote the petitioner as Sub-Registrar Grade II on par with her juniors from 1/4/2012 with all consequential and attendant benefits.

2. Brief facts which are necessary for the disposal of the writ petition are as follows:-

The petitioner had joined in the Department of Inspector General of Registration as an Assistant in the year 1993. She was given selection grade on completion of ten years of service. The respondent for disciplinary proceeding has issued a charge memo to the petitioner on 6/11/2007, on enquiry, the said charges were proved, on which the petitioner was imposed a penalty of reduction in rank for a period of one year. Accordingly, the



petitioner was reverted, as per the order dated 29/11/2010 and was posted as Junior Assistant in Kancheepuram District.

3. On 2/12/2010, the petitioner was granted permission to go abroad for six months from 20/12/2010 to 17/6/2011. Subsequently, the said permission was modified and she was permitted to leave for abroad from 7/2/2011 to 5/8/2011 i.e., for six months. After expiry of the leave, she reported to duty on 6/8/2011.

4. On 25/6/2012, the counsel for the petitioner has submitted a representation to the respondent to promote her as Sub-Registrar on par with her juniors, alleging that the period of punishment was completed on 29/11/2011. On 2/2/2013, the impugned order was passed by the respondent informing her that on 1/4/2011, which was the crucial date for preparation of panel for the year 2011 – 2012 and 1/4/2012, which was the crucial date for preparation of panel for 2012 – 2013, there was a currency of punishment, thereby, she could not be considered for promotion. It is further submitted that the respondent has unilaterally extended the period of punishment by six months contrary to the Rules, thereby, the petitioner has come forward with



the instant writ petition.

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5. The Inspector General of Registration has filed counter affidavit stating that as per the Proceedings in A.1/1997/07 dated 6/11/2007 charges were framed against the petitioner under Rule 10 (b) of the Tamil Nadu Civil Service (TDP) in TDP Case No.18 of 2007. She was awarded punishment by reducing her to the rank to Junior Assistant for a period of one year, as per the Proceeding dated 18/11/2010 and posted at administrative Section as per the Proceeding dated 29/11/2010.

6. It is also mentioned in the counter affidavit that as per paragraph No.4 of the order of imposing punishment, it is specifically mentioned that if the petitioner happens to go on leave during the period of punishment, the leave period will not be counted for calculation of the punishment period. The leave period from 7/2/2011 to 5/8/2011 is within the punishment period, thereby she was not considered.



7. Heard Mr.V.Kanchana, learned counsel for the petitioner and Ms.C.Sangamithirai, learned Special Government Pleader for the respondent.

8. The short point that falls for consideration is whether the respondent was justified in non inclusion of the name of the petitioner in the panel of promotion to the post of Sub-Registrar during the panel year 2011 – 2012 and another panel year 2012 – 2013.

9. The crucial date for preparation of panel year 2011 – 2012 is 1/4/2011. The Tribunal for disciplinary proceeding has framed the charges against the petitioner on 6/11/2007 and enquiry continued and final orders were passed on 18/11/2010. That means, as on date of preparation of panel on 1/4/2011 is for the period 2011 – 2012, the punishment imposed on the petitioner reducing the rank for a period of one year was in force. Therefore, in normal course, after expiry of one year period from 18/11/2010 i.e., subsequent to 17/11/2011, the petitioner's name should have been considered for the promotion. That means, the petitioner's name should have been considered for the panel 2012 – 2013, as the crucial date for preparation of



panel was 1/4/2012.

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10. Admittedly, the petitioner has availed leave for a period of six months from 7/2/2011 to 5/8/2011 and left for abroad. As per the punishment order, in case, if the petitioner avails leave, the said period will be excluded for calculating the punishment period. In case, if this kind of order is not passed, any employee who was in punishment for a specific period may go on leave for the said specific period and come back and claim promotion. The idea of imposing punishment for a specific period is that the petitioner should suffer while working during the said period. Therefore, in the punishment order, it is specifically mentioned that leave period shall be excluded from calculating the punishment period.

11. It is to be noted that after counter affidavit has been filed, mentioning the reason for exclusion of the leave period availed by the petitioner for a period of six months, the petitioner did not chose to file any rejoinder which indicates that the petitioner is not disputing the exclusion of leave period of six months which was specifically mentioned that leave period of six months and the order of punishment specifically mentioned



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that leave period will be excluded from calculating the punishment period.

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12. On account of exclusion of leave period, the punishment period imposed on 18/11/2010 to 18/11/2011 + (six months) = 18/4/2012. Therefore, after calculating 1 ½ years from the date of punishment which is 18/11/2010, the currency period of punishment will expire only on 18/4/2012. However, the crucial date for considering the petitioner for the post of Sub-Registrar for the panel 2012 – 2013 is 1/4/2012. Since on 1/4/2012, the currency period was still in existence, the petitioner's name could not be included.

13. In view of the above, the petitioner cannot contest the impugned order, wherein it is clearly explained the reasons as to why the petitioner's name has not been considered for the panel year 2011 – 2012 and also 2012 – 2013. In such a view of the matter, there are no merits in this writ petition.

14. Accordingly, this writ petition is dismissed. No costs.



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5/4/2024

dn/mvs.

Index : Yes/No

NCC: Yes/No

To

The Inspector General of Registration
Santhome
Chennai 28.

Dr.D. NAGARJUN, J

dn/mvs.



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Pre-delivery order made in
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