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W.P.No.8070 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 23.09.2024**

**CORAM :**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**Writ Petition No.8070 of 2023**  
**& WMP No.8332 of 2023**

A.Balakumar

.... Petitioner

-Vs-

1.State of Tamil Nadu

Rep.by Additional Principal Secretary/  
Commissioner of Revenue Administration  
Revenue Department, Ezhilagam, Chepauk  
Chennai 600 005.

2.The District Collector

Tiruppur  
Tiruppur District.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.No.3397/2015/A7 dated 25.11.2022 passed by the 2<sup>nd</sup> respondent and quash the same and consequently direct the respondents to include the petitioner's name in the Tahsildar panel of the year 2012 and sanction fixation of arrears of pay and other benefits with interest thereon in the cadre of Tahsildar with effect from 10.11.2012 to 31.05.2013 till date in the cadre of Tahsildar.

For Petitioner : Mr.N.Manojkumar

For Respondents : Mr.G.Velu  
Additional Government Pleader



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## **ORDER**

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2.The case of the petitioner is that he joined the service under the respondent as a Junior Assistant in the year 1984. Subsequently, he was promoted as Deputy Tahsildar on 21.04.2010. The disciplinary proceedings were initiated against the petitioner under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) rules. By proceedings dated 31.10.2012, the petitioner was punished with stoppage of increment for six months without cumulative effect. In the meantime, the name of the petitioner was included in the temporary panel that was prepared in the year 2012.

3.The petitioner aggrieved by the punishment imposed against him filed an appeal before the 2<sup>nd</sup> respondent. The 1<sup>st</sup> respondent by an order dated 14.01.2015 set aside the order of punishment imposed against the petitioner.

4.Pursuant to the above, through communication dated 20.06.2015, the 2<sup>nd</sup> respondent included the name of the petitioner in the panel and it was sent to the 1<sup>st</sup>



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respondent. The 2<sup>nd</sup> respondent had sought for the relaxation of rule on the ground that the petitioner who was otherwise qualified on the crucial date was not granted promotion since the disciplinary proceedings were initiated against him.

5.The 1<sup>st</sup> respondent through proceedings dated 26.07.2022, returned back the file on the ground that the relaxation of rules does not arise and it is left open to the 2<sup>nd</sup> respondent to take suitable further action on the request made by the petitioner.

6.To the shock and surprise of the petitioner, the impugned proceedings dated 25.11.2022, came to be issued by the 2<sup>nd</sup> respondent whereby, the 2<sup>nd</sup> respondent has refused to include the name of the petitioner in 2012 panel on the ground that the name of the petitioner was included only in the temporary panel and by the time, the permanent panel was prepared, the petitioner had already retired from service. Aggrieved by the same, the present writ petition has been filed before this Court.

7.The respondents have filed a counter affidavit. The relevant portions are extracted hereunder:

5.It is submitted that the petitioner representation dated 27.02.2015 submitted to the 2<sup>nd</sup> respondent was scrutinized. The Tahsildar list for the year 2012 was published in the proceedings of the 2<sup>nd</sup> respondent ref.No.8272/2012/A2 dated 23.12.2013, and the petitioner had already retired from service on the afternoon of



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31.5.2013. The Publication of Tahsildar panel for the 2012 was delayed due to the cases pending in the Hon'ble High Court and the Supreme Court of India. The punishment imposed on the petitioner was cancelled and monetary benefit of 6 months stoppage of increment has been paid to the petitioner after sanctioning the increment w.e.f. 1.4.2013 in the cadre of Deputy Tahsildar.

6.It is submitted that the request of the petitioner was scrutinized by the 2<sup>nd</sup> respondent and issued order of rejecting the request of the petitioner to include his name in the Tahsildar list for the year 2012 as the Tahsildar Panel List was published on 23.12.2013 when the petitioner had already retired from service on the afternoon of 31.05.2013. The petitioner name was not included in the Tahsildar Temporary Panel for the year 2012 as there were charges pending against the petitioner and punishment of stoppage of 6 months of increment without cumulative effect was cancelled by the 1<sup>st</sup> respondent only on 14.1.2015 when the petitioner had already retired from service.

7.It is submitted that the claim of the petitioner to include his name in the Tahsildar Panel for the year 2012 is not possible as at the time of drawl of temporary Tahsildar list, charges were pending against the petitioner under Tamil Nadu Civil Services (Discipline and Appeal) Rule 17(a) and the punishment made to the petitioner by the 2<sup>nd</sup> respondent was cancelled by the 1<sup>st</sup> respondent during the year 2015. Hence the name of the petitioner cannot be included in the temporary panel of Tahsildar for the year 2012 at this stage as he cannot act as Tahsildar as he has retired from service on the afternoon of 31.05.2013.



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8.The petitioner, in his affidavit, has quoted the case of one Thiru.Subramanian who was not included in the Temporary Tahsildar panel dated 10.11.2012 due to certain charges against him but, subsequently included in the panel. In this regard, it is submitted that Thiru.Subramanian faced charges, and subsequently, Thiru.Subramanian approached the 1<sup>st</sup> respondent seeking inclusion in the Tahsildar Panel of the year 2012. The petitioner claims that the 1<sup>st</sup> respondent, vide order Na.Ka.3 (3)/1226/2014 dated 27.03.2015, directed the appointing authority to include Thiru.Subramanian's name in the Tahsildar panel of the year 2012. It is also acknowledged that, following this order, Mr.Subramanian's name was indeed included in the Tahsildar panel year 2012. However, this case cannot be compared with the instant case. The Charges against Thiru. Balakumar are completely different to that of Thiru.Subaramanian. It is also crucial to note that the 1<sup>st</sup> respondent's order did not exonerate the charges petitioner had faced. Instead, the order merely rescinded the penalties imposed on him. There was no explicit exoneration of the charges against Mr.Balakumar. In the light of the above facts, it is apparent that the petitioner contention that his name should have been included in the Tahsildar panel of the year 2012 based on the inclusion of Mr.Subramanian's name lacks merit. The circumstances surrounding Mr.Balakumar's case are distinct, as his penalties were rescinded but not the charges themselves.

9.It is submitted that the orders passed by the 2<sup>nd</sup> respondent in his proceedings No.3397/2015/A7 Dated 25.11.2022 rejecting the request of the petitioner to include his name in the Tahsildar List for



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the year 2012 as the petitioner was already retired on 31.05.2013 before the publication of the Tahsildar List for the year 2012 is correct and according to the rules and law.

I submitted that with regard to the contention raised in grounds A to H it is submitted that the Charges against Thiru.Balakumar are completely different to that of Thiru.Subaraanian. It is emphasized that the order issued by the 1<sup>st</sup> respondent did not explicitly exonerate Thriu.Balakumar of the charges but rather rescinded the penalties imposed. The distinct circumstances surrounding Mr.Balakumar's case should be duly considered.

The petitioner's contention that his name should have been included in the Tahsildar panel of the year 2012 based on the inclusion of Mr.Subramanian's name is refuted. It is submitted that such an inclusion lacks merit due to the fundamental difference in the nature of the cases against Thiru.Balakumar and Thiru.Subramanian.

The orders passed by the 2<sup>nd</sup> respondent in Proceedings No.3397/2015/A7 dated 25.11.2022, rejecting the petitioner's request to include his name in the Tahsildar List for the year 2012,were just and in accordance with rules and law. The respondent contends that the decision was correct, considering the petitioner's retirement before the publication of the Tahsildar List for the year 2012.

8.Heard Mr.N.Manojkumar, learned counsel for the petitioner and Mr.G.Velu, learned Additional Government Pleader for respondents.



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9.The short issue that arises for consideration is as to whether the name of the petitioner ought to have been added in the 2012 panel for promotion to the post of Tahsildar and he should have been extended with all attendant benefits.

10.The undisputed facts is that the name of the petitioner was included in the temporary promotion panel list of the year 2012 to the post of Tahsildar. The name of the petitioner was not considered since the disciplinary proceedings were pending and it resulted in a punishment. The petitioner ultimately retired from service on 31.05.2013. The punishment imposed against the petitioner was interfered by the 1<sup>st</sup> respondent and the order of punishment was cancelled through proceedings dated 14.01.2015.

11.The request of the petitioner was thereafter considered by the 2<sup>nd</sup> respondent and the 2<sup>nd</sup> respondent had in fact added the name of the petitioner in the proceedings dated 20.06.2015, whereby he had sent communication to the 1<sup>st</sup> respondent by giving all the particulars. The 1<sup>st</sup> respondent had taken a stand that there is no need for relaxation of the rules and that the appointing authority himself can take suitable action on the request made by the petitioner. The 2<sup>nd</sup> respondent who was favourable to the petitioner earlier, reversed his stand in the subsequent proceedings dated 25.11.2022 only on the ground that the petitioner had retired from service by the time the final panel was prepared for promotion to the post of Tahsildar.



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12.The above stand taken by the 2<sup>nd</sup> respondent in the impugned proceedings dated 25.11.2022, runs completely contrary to the earlier stand taken by the 2<sup>nd</sup> respondent in his communication dated 20.06.2015. The name of the petitioner was in fact added in the list and the 2<sup>nd</sup> respondent was asking for the relaxation of rules from the Government. When that is the case, the 2<sup>nd</sup> respondent turned turtle and took a diametrically opposite stand in the impugned proceedings dated 25.11.2022. Such a stand has been taken only to deprive the petitioner of his rightful claim made for adding his name in the panel and to pay the attendant benefits.

13.The moment the 1<sup>st</sup> respondent had set aside the punishment imposed against the petitioner through proceedings dated 14.01.2015, the petitioner is restored back to the original position. Therefore, whatever the petitioner was entitled to as on that date, has to be granted to the petitioner. The 2<sup>nd</sup> respondent perfectly understood this position in his communication dated 20.06.2015 made to the 1<sup>st</sup> respondent. Later, the 2<sup>nd</sup> respondent has only found out some reason to reject the claim made by the petitioner which in the considered view of this Court is completely unsustainable. By the time, the name of the petitioner was added in the final panel list, the petitioner had retired. That does not mean that the name of the petitioner being added in the temporary panel in 2012 can be given a go by and the petitioner can be deprived of his rightful claim.



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14.In the light of the above discussion, the impugned proceedings of the 2<sup>nd</sup> respondent dated 25.11.2022, is hereby quashed and there shall be a direction to the 2<sup>nd</sup> respondent to include the name of the petitioner in 2012 panel for Tahsildar and sanction the appropriate scale of pay and consequently, refix the pension paid to the petitioner. The arrears of amount that is due and payable to the petitioner shall also be paid to the petitioner within a period of eight weeks from the date of receipt of copy of the order, after passing an appropriate order. If there is any delay in payment of the arrears of pay and revision of the pension of petitioner beyond the time period prescribed by this Court, the same shall carry an interest at the rate of 6% p.a., till the date of disbursal of the amount.

15.In the result, this writ petition is allowed in the above directions. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

NCS : Yes/No

KP

1.The Additional Principal Secretary/  
Commissioner of Revenue Administration  
State of Tamil Nadu  
Revenue Department, Ezhilagam, Chepauk  
Chennai 600 005.



2.The District Collector  
Tiruppur, Tiruppur District.

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t.**N.ANAND VENKATESH, J.**

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