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W.P.No.23408 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2024

CORAM

THE HON'BLE Mr.JUSTICE **C.KUMARAPPAN**

W.P.No.23408 of 2015
and M.P.No.1 of 2015

P.Muniappan

... Petitioner

Vs.

1.The Secretary to Government of Tamilnadu
Municipal Administration and Water Supply Department
Fort St. George, Chennai -9

2.The Director of Town Panchayat
Kuralagam, Chennai 108

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in his Letter No.30323/TP1/2014-5 dated 10.11.2014 and quash the same and consequently direct the respondents to grant promotion as Executive Officer Selection Grade with effect from 2004-2005 as reflected in the final seniority list of EO Selection Grade published on 12.07.2013 and consequently fix the petitioner's pension and other terminal benefits based on the above fixation of pay from the year 2004-2005 in the post of Executive Officer Selection Grade in light of the proceedings of the 2nd respondent in Na.ka.No.6793/2013/A7 dated 04.02.2015.



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For Petitioner : Mr.C.P.Gowtham
for Mr.V.Vijay Shankar

For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

The above Writ Petition has been filed seeking for an issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in his Letter No.30323/TP1/2014-5 dated 10.11.2014 and quash the same and consequently direct the respondents to grant promotion as Executive Officer Selection Grade with effect from 2004-2005 as reflected in the final seniority list of EO Selection Grade published on 12.07.2013 and consequently fix the petitioner's pension and other terminal benefits based on the above fixation of pay from the year 2004-2005 in the post of Executive Officer Selection Grade in light of the proceedings of the 2nd respondent in Na.ka.No.6793/2013/A7 dated 04.02.2015.

2.The learned counsel for the petitioner would submit that the petitioner has joined with the respondent as a Sanitary Maistry in the year 1972, and thereafter he was promoted as a Bill Collector on 17.06.1984. He was again promoted as an Assistant / E.O. Grade II in the year 2002. While so, on 03.12.2002, he was issued with a charge memo and after that an



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enquiry was conducted. Ultimately, on 29.09.2009 after completion of enquiry all the charges were dropped. In the meantime, the respondents have promoted many of the juniors of the petitioners. It is also pertinent to mention here that on the next day of dropping of all the charges against the petitioner viz. on 30.09.2009, the petitioner was also superannuated. However, the learned counsel for the petitioner would submit that since the charge has been dropped, he must be given notional promotion in accordance with the 2004-2005 panel, where his name would have been considered, if the charge memorandum was not issued.

3.Per contra, the learned Government Advocate would contend that the request of the petitioner could not be considered as the Unit Wide Seniority has become changed to State Wide Seniority, and since the petitioner did not discharge any duty in the promotional posts, he is not entitled for any monetary benefits retrospectively in the promotional posts.

4. I have given my anxious consideration to either side submissions.

5.The sum and substance of the ground raised by the petitioner is that since the charge framed against him has been subsequently dropped, he seeks



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notional promotion. It is an admitted fact that the charge against the petitioner was dropped on 29.09.2009. It is also an admitted fact that the petitioner's name finds a place as per the proceedings of the respondent dated 12.07.2013 for the panel year for 2004-2005 under the serial No.282. Therefore, when the charge has been subsequently dropped, the promotion which was stalled by the respondent on account of the disciplinary proceedings dated 03.12.2002, ought to have been granted to him.

6. Therefore, in view of dropping of the charge, the prayer sought for by the writ petitioner seeking a notional promotion, according to the panel of the year 2004-2005, is well merited. However, it is made clear that since the petitioner did not discharge any duty in the promotional posts, he is not entitled for any monetary benefits for that period. However, in respect of the other benefits, the petitioner is entitled to have the same in accordance with law.

7. In the result this Writ Petition stands allowed. The respondents are hereby directed to promote the petitioner notionally as per the panel year 2004-2005 and to pass appropriate orders within a period of eight (8) weeks



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from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

13.09.2024

kas

Index: yes / no

Neutral Citation : yes / no

To

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C.KUMARAPPAN, J.

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