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W.P.No. 6117 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**W.P.No.6117 of 2024
and
W.M.P.No.6772 of 2024**

N.Arivalagan

.... Petitioner

Vs

1. State of Tamil Nadu,
Rep. by its Secretary to Government
and Farmers Welfare Department,
Fort St.Geroge, Chennai – 600 009.

2. The Chief Engineer,
Agriculture Engineering Department,
487, Anna Road,
Nandanam, Chennai – 600 035.

3. The Superintending Engineer (AE),
Agriculture Department,
Tiruchirapalli.

.... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to include the petitioner's name in the panel of Assistant Engineer fit for promotion for the post of Assistant Executive Engineer and promote him as Assistant Executive Engineer temporarily on par with his juniors without reference to the pending Vigilance case in Crime No.10 of 2009.



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For Petitioner : Mr.M.Muthappan

For Respondents : Mr.K.Tamilvendan
Government Advocate

ORDER

This Writ Petition has been filed for a direction directing the respondents to include the name of the petitioner in the panel of Assistant Engineer to the post of Assistant Executive Engineer.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner had worked as Assistant Engineer for the past 26 years. While being so, in the year 2008 and 2009, there was an allegation against Junior Engineers, Assistant Engineers and Assistant Executive Engineers in Trichy, Perambalur, Karur, Ariyalur and Pudukottai District, alleging that they along with the private individuals, viz., Contractor, conspired together to do illegal act of misappropriation of Government funds by making false entries in the M-Book as if works were carried out in the subsidy funds allotted to the farmers for formation of farm ponds, minor, medium and major check dams, recharge shafts and rejuvenation of well works. Pursuant to the said complaint, the



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Vililance and Anti Corruption, Trichy, registered an FIR in Crime No.10 of 2009. However, the petitioner's name is not found in the FIR. The investigation says that he is also involved in the said crime.

4. While being so, there was a proposal for promotion to the post of Assistant Executive Engineer and the third respondent is directed to send the proforma of the eligible Assistant Engineers and in the recommendation column, it has been stated that the FIR in Crime No.10 of 2009 on the file of the Vigilance and Anti Corruption, Trichy, is pending against the petitioner. However, for the past thirteen years there was no progress in the investigation and so far no charge sheet has been laid in Crime No.10 of 2009. Therefore, the petitioner submitted a representation to the second respondent to include his name in the panel without reference to the pending in this case.

5. The learned counsel appearing for the petitioner also pointed out that as per Section 47(4) of the Tamil Nadu Government Servants (conditions of service) Act 1916, the appointing authority may promote the delinquent officer temporarily against whom charges or vigilance case is pending. There is absolutely no impediment to include the petitioner in



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the panel of Assistant Engineer fit for promotion to the post of Assistant Executive Engineer.

6. In view of the above, the respondents 1 and 2 are directed to consider the representation submitted by the petitioner in view of the observations made by this Court and pass orders to include the petitioner's name in the panel of Assistant Engineer fit for promotion to the post of Assistant Executive Engineer within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of. Consequently connected miscellaneous petition is closed. No costs.

08.03.2024

Index: Yes/No
Speaking Order: Yes
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To



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1. The Secretary to Government
Farmers Welfare Department,
Fort St.Geroge, Chennai – 600 009.

2. The Chief Engineer,
Agriculture Engineering Department,
487, Anna Road,
Nandanam, Chennai – 600 035.

3. The Superintending Engineer (AE),
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G.K.ILANTHIRAIYAN, J.

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