



W.P.No.9539 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE **J.SATHYA NARAYANA PRASAD**

W.P.No.9539 of 2012

and

MP.Nos.2 & 3 of 2012

M.Ganesan

...Petitioner

Vs.

1. The Additional Director General of Police/
Inspector General of Prisons,
Tamilnadu, Chennai – 8.

2. The Superintendent of Prisons,
Central Prison-II, Puzhal,
Chennai – 66.

...Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the respondents in connection with the impugned order passed the 1st respondent in Ref.No.11578/ES.3/2011 dated 13.03.2012 and by the 2nd respondent RC No.1590/G1/2011 dated 14.03.2012 and quash the same.

For Petitioner : Mr.K.Venkatramani, Sr.C
for Mr.M.Muthappan

For Respondents : Mr.M.Rajendiran, AGP, for R1 & R2



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ORDER

WEB COPY The petitioner has come up with this Writ petition seeking quashment of the order passed the 1st respondent in Ref.No.11578/ES.3/2011 dated 13.03.2012 as also the order of the 2nd respondent in RC No.1590/G1/ 2011 dated 14.03.2012.

2. Learned Senior counsel appearing for the petitioner submitted that, the petitioner entered the service as a directly recruited Grade-II Warder in Cuddalore Prison on 18.10.1983 and was promoted as Grade-I Warder in the year 2004 and was further promoted as Chief Head Warder in the year 2009 and was serving as Assistant Jailor, Central Prison-II, Puzhal from 04.10.2011. While so, the Inspector General of Prisons has prepared a temporary panel of Chief Head Warders fit for promotion to the post of Assistant Jailors for the year 2011 and after duly considered by the Board, the petitioner's name was included in the temporary panel on 11.07.2011. At that time, the petitioner was working as Chief Head Warder in Sub-Jail, Kumbakonam and pursuant to the promotion order dated 04.10.2011, the petitioner was transferred and posted to Central Prison-II, Puzhal. In the



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mean while, the petitioner participated in the the promotion board for the preparation of the panel for the post of Assistant Jailor from the post of Chief Head Warder convened at Central prison, Trichy and the board considered the name of the petitioner for promotion to the post of Assistant Jailor and his name was included in Sl.No.23 for the year 2011-12, vide proceedings No.5011/CA/2011 dated 23.01.2012.

2.1 Further, it is pertinent to note that, though the petitioner was promoted as Assistant Jailor temporarily, his claim was also considered by the Department and his name was included in S.No.23, as the petitioner is already serving in the promotional post of Assistant Jailor and there is no necessity to pass separate orders for inclusion in the panel. Further, as the petitioner was neither facing any proceedings under rule 17(b) nor having currency of punishment, his inclusion is well within the prescribed guidelines of the department in respect of promotion. While such being the case, purely due to the animosity between the petitioner and the Superintendent of Central Prison-II, Puzhal, the petitioner was issued with a charge memo by the respondents in respect of an incident that took place on



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06.11.2011, wherein the petitioner has got absolutely no role to play.

Though, the petitioner sent a detailed explanation denying the charges, however, without considering the same, the disciplinary authority namely the Superintendent of Prisons, held that the charges against the petitioner has been proved and by proceedings dated 15.02.2012, imposed a punishment of stoppage of increment for a period of 2 years without cumulative effect. Further, upon receipt of the report from the 2nd respondent stating that, though the petitioner was temporarily promoted as Assistant Jailor, however, in pursuance of the punishment sustained by him, his name has to be deleted from the panel, the 1st respondent, vide proceedings dated 13.03.2012, deleted the name of the petitioner from the panel of the Assistant Jailor for the year 2011-2012 in Sl.No.23 and also ordered to revert the petitioner back to the post of Chief Head Warder. Pursuant to the said order, the 2nd respondent passed an order dated 14.03.2012 reverting the petitioner from the post of Temporary Assistant Jailor to the post of Chief Head Warder in the Central Prison in the existing vacancy with immediate effect, which is not sustainable and the reasons mentioned for deleting the name of the petitioner and for reverting him from the post of



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Temporary Assistant Jailor to the post of Chief Head Warder is not valid, as the guidelines mentioned therein cannot be made applicable to the case of the petitioner and the same is applicable only to such of those persons who are yet to be promoted to the promotional post and only if the petitioner is facing any disciplinary proceedings under Section 17(b) or if he has suffered a punishment before promotion, only then his name can be deleted from the panel.

2.2 In the present case, since the petitioner has been temporarily promoted for the panel prepared on 11.07.2011 and was consequently promoted on 04.10.2011 and he has been working at Central prison from 06.10.11 and since his name was also considered for promotion and included in the panel of Assistant Jailor by the 1st respondent, vide proceedings dated 23.01.2012, there is no necessity to issue separate order of promotion to the petitioner, as he is already holding the promotional post. Hence, the order of revert cannot be sustained and accordingly, he prayed for quashment of the order of the 1st respondent dated 13.03.2012, deleting the name of the petitioner from the panel and also the order of the 2nd



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respondent dated 14.03.2012, reverting the petitioner from the post of temporary Assistant Jailor to the post of Chief Head Warder.

3. Per contra, the learned counsel appearing for the respondents submitted that the petitioner was temporarily promoted as Assistant Jailor with effect from 13.10.2011 as per the approved list prepared by the 1st respondent in his proceedings No.17802/ES3/2011 dated 11.07.2011. However, in order to regularise the service of those temporarily promoted persons, the selection was conducted by the Promotion Board and the promotion board, after duly considering the case of the petitioner, passed over the name of the petitioner to regularize his service as Assistant Jailor, by the 1st respondent in his Memo No.11578/ES3/2011-3 dated 22.02.2012, due to currency of punishment during the consideration of the panel. Further, the petitioner attended the selection conducted on 23.1.2012 at Central prison, Trichy and his name was included in Sl.No.23 of the final list prepared by the Promotion Board alone and not in the panel. The approval of list is vested with the 1st respondent as per rules and before approval of the list by the 1st respondent, as the petitioner earned the



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punishment of “Postponement of his next increment for a period of two years without cumulative effect”, vide proceedings No.6518/G3/2011, dated 15.02.2012, the 1st respondent had rightly excluded the petitioner while approving the regular panel for the post of Assistant Jailor published in his proceedings No.11578/ES3/2011 dated 22.02.2012.

3.1 Learned Additional Government Pleader further submitted that, though the petitioner has no punishment or charges under rule 17(b) at the time of conducting the selection of the petitioner, however, as he earned a punishment on 15.02.2012, which is prior to the approval of the panel by the 1st respondent, the petitioner's name was excluded as per the guidelines issued for consideration for promotion and the petitioner was included in the temporary panel for the post of Assistant Jailors in proceedings No.17802/ES3/2011, dated 11.07.2011 merely based on seniority and without following the procedure for drawal of the regular panel. Hence, the temporary promotion provided based on this temporary panel will not confer him any right for his regularization as Assistant Jailor. In respect of the regular panel, even Juniors than him is to be considered and included.



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3.2 Further, on 06.11.2011, one Suresh, remand prisoner No.17159 committed suicide in the ventilator nearby the backside of Special Class 5th cell and died on the way to hospital, since the petitioner as the In-charge officer of the Special class block failed to supervise the said block and Block in-charge warder. Therefore, as the petitioner being the in-charge officer for the Special Class Block, in which the prisoner committed suicide and as only due to his lapses the prisoner committed suicide, he was dealt with a charge under Rule 17(a) of T.N.C.S.(D & A)Rules and was awarded the punishment of “Postponement of his next increment for a period of two years without cumulative effect” in proceedings No.6518/G3/ 2011, dated 15.02.2012. Further, not only the petitioner, but the Round officer, and Grade I Warder were also issued with a charge and were imposed with punishment of “Postponement of his next increment for a period of two years without cumulative effect”. The above said punishment earned by the petitioner was reported to the 1st respondent, vide letter No.6518/G3/2011, dated 15.02.2012 and thereby, the 1st respondent had excluded the petitioner while approving the regular panel for the post of Assistant Jailor published in his proceedings No.11578/ES3/2011 dated 22.02.2012 and thereafter, the



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petitioner was reverted to the post of Chief Head Warder from the temporary post of Assistant Jailor and got posted in the existing vacancy at Central Prison-II, Puzhal and all the above said proceedings are as per the existing rules and there is no violation of principles of natural justice in any manner.

3.3 Further, as per the list of Assistant Jailors panel for the year 2011-2012, dated 22.02.2012, 61 persons were promoted and not only the petitioner's name was passed over, but 8 more persons names were also passed over and the reasons were also stated in proceedings No.11578/ES 3/2011-3 dated 22.02.2012. Accordingly, he prayed for dismissal of this Writ petition.

4. Heard the learned Senior counsel for the petitioner and the learned counsel appearing for the respondents and perused the material documents placed on record.

5. In the case in hand, it is a admitted fact that the petitioner was



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promoted temporarily to the post of Assistant Jailor and the petitioner attended the selection conducted on 23.1.2012 at Central prison, Trichy and his name was included in Sl.No.23 of the list prepared by the Promotion Board. As rightly pointed out by the learned Additional Government Pleader, though the petitioner's name was included in the final list, however, the approval of list is vested with the 1st respondent as per rules and before approval of the list by the 1st respondent, the petitioner earned the punishment of "Postponement of his next increment for a period of two years without cumulative effect" for the charge under Rule 17(a) of T.N.C.S.(D & A)Rules, since one Suresh, remand prisoner No.17159 committed suicide in the ventilator nearby the backside of Special Class 5th cell and died on the way to hospital, due to the poor supervision of the petitioner, who was the In-charge officer of the Special class block. Therefore, the 1st respondent had rightly excluded the petitioner while approving the regular panel for the post of Assistant Jailor published in his proceedings No.11578/ES3/2011 dated 22.02.2012.

6. It is pertinent to note that, the final and regular panel for promotion



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from the post of Chief Head Warder to the Assistant Jailor was approved by the 1st respondent. Though the petitioner's name was included in the Selection list, since he was imposed with a punishment of “Postponement of his next increment for a period of two years without cumulative effect” on 15.02.2012, which is prior to the approval of the regular panel for the post of Assistant Jailor by the 1st respondent published in his proceedings No.11578/ES3/2011 dated 22.02.2012, his name was not included in the regular panel.

7. It is to be noted that, the petitioner was aged about 52 years at the time of filing the Writ petition and he got superannuated as early as in the year 2018 on attaining the age of superannuation.

8. In view of the above factual matrix of the case, this Court is not inclined to interfere with the order passed by the 1st respondent in Ref.No. 11578/ES.3/2011 dated 13.03.2012, deleting the name of the petitioner from the panel and the order passed by the 2nd respondent in RC No.1590/G1/2011 dated 14.03.2012, reverting the petitioner from the post of temporary



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Assistant Jailor to the post of Chief Head Warder.

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9. In the result, this Writ petition stands dismissed. No costs.

Consequently, the connected Miscellaneous petitions are closed.

29.02.2024

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

To

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