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W.P.No.36136 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

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THE HONOURABLE MS. JUSTICE P.T.ASHA

W.P.No.36136 of 2015

and

M.P.Nos.1 & 2 of 2015

K.Senthilkumaran

... Petitioner

Vs.

1.The Director of Agriculture,
Chepauk, Chennai-05.

...Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, To call for the records connected with the proceedings issued in Letter No.Pa.O.Pe.2/86928/2015 dated 28.10.2015 passed by the Respondent herein and quash the same and consequently direct the Respondent to promote the petitioner for the post of Administrative officer.

For Petitioner : M/s.S.Ilamvaludhi

For Respondent : M/s.V.Jeevagiridharan



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ORDER

WEB COPY The above writ petition has been filed challenging the impugned order passed by the respondent dated 28.10.2015 in and by which the petitioner's claim for promotion has been rejected and consequently direct the respondent to promote the petitioner to the post of Administrative Officer.

2. The facts which have culminated in the filing of the Writ Petition are as follows:-

2.1 The petitioner who had originally joined the services of the Agricultural Engineering Department as a Junior Assistant was promoted as an Assistant and promoted further as a Superintendent in which post the petitioner was continuing as on the date of the filing of the Writ Petition.

2.2. It appears that a criminal proceeding had been initiated against the petitioner on the allegation that he had abetted the suicide of his wife. Since a criminal case was pending, he was placed under



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suspension by the proceedings of the Superintending Engineer, Agriculture Engineering, Vellore Region dated 29.04.2008. The case had been taken on file by the Assistant Sessions Judge, Vellore in SC.No.173/2009. After full trial the petitioner was acquitted by orders of the Court on 23.11.2009. As soon as the case had ended in his favour, the petitioner had made a request to the Chief Engineer, Agricultural Engineering and Superintending Engineer, Vellore Region to give him postings. However, by a letter dated 22.12.2009, the Superintending Engineering reported to the Chief Engineer that there was no post of Superintendent vacant in the Vellore Region and surrendered the post of Superintendent which the petitioner was holding to the Chief Engineer, Agricultural Engineering, Chennai. Subsequently, the petitioner had been admitted to the Christian Medical College Hospital, Vellore where he was undergoing treatment.

2.3. The petitioner would further submit that the Superintending Engineer, Vellore Region who had revoked the suspension and reinstated him in service had simultaneously surrendered the



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petitioner's post to the Head Office. The petitioner would submit that due to certain family problems, he had requested that he should not be transferred out of Vellore. Further, his junior one S. Joseph was continuing in the same office as Superintendent and requested that he be transferred to the Head Office. The petitioner had filed W.P.No.13275/2010 calling upon the respondent to give him postings in Vellore Region. Pursuant to the orders of this Court the petitioner was permitted to join as Superintendent in the very same office. He continued in the same place till 13.02.2011 and was thereafter transferred to Thiruvannamalai District on 14.02.2011.

2.4. Aggrieved by the petitioner approaching this Court, the respondent held a grudge against the petitioner. Therefore, a charge memo dated 23.09.2011 under Rule 17(a) of CCA D & A Rules was issued by the Superintendent, Agricultural Engineering, Vellore Region. Seven charges were framed against the petitioner stating that he had filed a writ petition without disclosing the true facts in the affidavit. Ultimately, the petitioner was visited with a punishment of



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stoppage of increment with cumulative effect for one year vide order dated 04.10.2012 by the Additional Director of Agriculture (Planning and Administration) Chennai. The petitioner had preferred an appeal to the respondent herein and by an order dated 22.06.2015, the Appellate Authority had modified the order of punishment passed by the 2nd respondent by converting it to a stoppage of increment for one year without cumulative effect.

2.5. The petitioner would submit that therefore there was no punishment in the eye of law when the panel was finalised and his name ought to have been included in the panel for promotion to the post of Administrative Officer for the year 2012-2013. The petitioner has also not been considered for promotion either in the years 2013-14 or 2014-15. The petitioner would submit that though his name appeared in the Seniority List, he was not considered for promotion on account of the currency of punishment. According to the petitioner, the punishment had come to an end in the year 2013 itself and he ought to have been considered for promotion in the subsequent panels.



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However, he was not considered so and ultimately his representation dated 30.10.2015 was rejected. Therefore, the petitioner has come forward with the writ in question.

3. The respondent has filed a counter, the sum and substance of which is that the petitioner was not included in the earlier panels for promotion to the post of Administrative Officer, since the petitioner was facing disciplinary proceedings and the punishment was in currency. The respondent had highlighted the proceedings, punishment etc; that had been pending against the petitioner.

4. Heard the learned counsels on either side.

5. The petitioner had been charged under Rule 17(a) of CCA D & A Rules. On 04.10.2012 he has been imposed punishment of stoppage of increment for one year with cumulative effect. The panel for promotion to the post of Administrative Officer for the year 2012-13 was prepared on 15.11.2012 at which point in time the punishment



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was in currency. The petitioner had thereafter preferred an appeal which was allowed by an order dated 01.10.2015 in and by which the punishment had been modified as one for stoppage of increment for one year without cumulative effect. Therefore, the currency of the punishment is deemed to be effective till 01.10.2013. The panel for promotion to the post of Administrative Officer for the year 2012-13 was prepared on 01.09.2011 and approved on 28.02.2013 at which point in time the petitioner's punishment was in currency. The panel for promotion to the post of Administrative Officer for the year 2013-14 was prepared on 01.09.2012 and was approved on 18.09.2013 during the currency of the punishment. The panel for promotion to the post of Administrative Officer for the year 2014-15 was prepared on 01.09.2013 but was approved only on 29.10.2014. In the panel for promotion to the post of Administrative Officer for the year 2014-15, the petitioner's name features in serial no.1 in the Seniority list. The said panel has been approved on 29.10.2014 at which point in time the petitioner's punishment was not in currency. However, he has not been considered and has been considered much later.



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6. The learned AGP, Mr.V.Jeevagiridharan would submit that it is no doubt true that one time increment was due on 01.10.2013 but however the same would run till the next year. This is a fallacy since if it is taken so then it would be a case of punishment with cumulative effect. However, the Appellate Authority has chosen to take away the order directing stoppage of increment with cumulative effect. Therefore, the respondents cannot now try to contend as above. The said contention has to necessarily be repulsed and is accordingly repulsed.

7. In the result, the Writ Petition is allowed. Since the petitioner has superannuated, he shall notionally be considered to have been promoted as Administrative Officer in the panel for the year 2014-15 and be entitled to all the other attendant benefits that flow from such promotion. No costs. Consequently, the connected Miscellaneous Petitions are closed.

(shr)
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Speaking / Non Speaking Order
Neutral Citation : Yes/No

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To

- 1.The Director of Agriculture,
Chepauk, Chennai-05.
Chepauk, Chennai-05.



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P.T.ASHA. J.,

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