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W.P.No.13798 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

CORAM :

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Writ Petition No.13798 of 2020
and W.M.P.Nos.17149 & 17150 of 2020

P.M.Kumar

...

Petitioner

-Vs-

1.The Additional Chief Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Commissioner of Municipal Administration,
No.75, Santhome High Road,
MRC Nagar, Raja Annamalaipuram,
Chennai - 600 028.

3.The Commissioner,
Salem Corporation,
Salem - 636 001.

4.S.Shanthi

5.N.Kuzhandaivelu

...

Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India
praying for the issuance of a Writ of Certiorarified Mandamus, calling for



W.P.No.13798 of 2020

the records of the 3rd respondent in proceedings

Nos.Na.Ka.No.C2/14672/2017 dated 04.09.2020,

Na.Ka.No.C2/14672/2017 dated 05.09.2020 and C2/14672/2017 dated 21.09.2020, quash the same in so far as not considering his name for promotion to the post of Administrative Officer and consequently directing the 3rd respondent to recast the seniority list by including his name in the final seniority list and to issue an order of promotion to the post of Administrative Officer for the year 2020-2021.

For Petitioner	: Mr.V.Stalin for M/s.Row and Reddy
For Respondents-1& 2	: Mr.K.H.Ravikumar Government Advocate
For Respondent-3	: Mrs.N.Devi Standing Counsel for Municipal
For Respondent-4	: Mr.T.Ranganathan
For Respondent-5	: Mr.R.D.Ashok Kumar

ORDER

Heard Mr.V.Stalin, the learned counsel for the petitioner, Mr.K.H.Ravikumar, the learned Government Advocate for R1 and R2, Mrs.N.Devi, the learned Standing Counsel for R3, Mr.T.Ranganathan, the learned counsel for R4 and Mr.R.D.Ashok Kumar, the learned



W.P.No.13798 of 2020

counsel for R5.

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2. The petitioner has filed this writ petition challenging the proceedings of the 3rd respondent in Na.Ka.No.C2/14672/2017 dated 04.09.2020, Na.Ka.No.C2/14672/2017 dated 05.09.2020 and C2/14672/2017 dated 21.09.2020 and to direct the 3rd respondent to recast the seniority list by including his name in the final seniority list and to issue an order of promotion to the post of “Administrative Officer” for the year 2020-2021.

3. In the disciplinary proceeding initiated against the petitioner, the petitioner was given with punishment of stoppage of one year increment without cumulative effect on 11.07.2019. When the petitioner challenged the same by way of preferring an appeal, it was modified and deducted to 6 months increment cut without cumulative effect. The said order has been passed on 04.11.2019. However the petitioner has filed a Revision Petition on 28.11.2019 and the same is still pending.



W.P.No.13798 of 2020

4. On 01.04.2020, the respondent Corporation has prepared a promotional panel to the post of “Administrative Officer”. The petitioner has a grievance that had his punishment of six months increment is counted from the month of July, it would have been over before the crucial date of 01.04.2020 on which date the panel for promotion to the post of Administrative Officer fell due.

5. Mrs.N.Devi, the learned Standing Counsel for R3, submitted that since the petitioner has filed an appeal challenging the punishment and an order has been passed on appeal only on 04.11.2019, the petitioner cannot claim that his six months currency of punishment would have ended by 31.03.2020.

6. According to the third respondent, the six months period will end only on 03.05.2020 and hence the punishment was in currency as on 01.04.2020 when the panel was prepared. So the third respondent appears to have calculated the punishment from 04.11.2019 to 03.05.2020. But, the issue in respect of date from which the punishment has to be calculated was dealt in W.A.No.1311 of 2019 and the same has



W.P.No.13798 of 2020

been answered by the Division Bench in its judgment dated 29.04.2021.

The relevant portion of the said judgment is extracted hereunder:

“ .. 8. Therefore, we are of the opinion that the currency of punishment with regard to the postponement of increment, has to be calculated only from the date on which the increment will fall due, whereas, the panel in this case, was drawn for promotion to the post of Administrative Officer, only on 01.09.2010, on which date, there was currency of punishment in respect of the appellant / writ petitioner. If so calculated, in this case, the currency of punishment ends only on 30.09.2010.”

7. Even according to the petitioner, if the punishment period has to be calculated from the date of the order of disciplinary authority on 11.07.2019, the punishment can be implemented only from the date when his next annual increment fell due. The learned counsel for the third respondent submitted that the annual increment of the petitioner did fall on every 1st April of every year. In such case the petitioner's next increment would fall subsequent to the punishment on 01.04.2020. So six month's increment cut can be implemented from 01.04.2020 and that would end by 30.09.2020.



W.P.No.13798 of 2020

8. Even if the revision petition filed by the petitioner is pending challenging the punishment, that cannot be held against the petitioner in the matter of promotion for the reason that the implementation of the punishment itself will be over by 30.06.2020. So in all probabilities and possibilities, the petitioner could have been included at least in the subsequent promotion panel for promoting to the next level. But the third respondent overlooked the petitioner's promotion by including his name in the subsequent promotion panel also. If the punishment is over by 30.09.2020, the next promotion panel will be on 01.04.2021. The petitioner could have been included in the next promotion panel as on 01.04.2021.

9. Since the petitioner is retired from service, the respondents are directed to consider the case of the petitioner and pass orders by giving notional promotion to him by considering his eligibility for promotion as on 01.04.2021 and giving monetary benefit for the purpose of pension, within a period of six weeks from the date of receipt of a copy of this order.



W.P.No.13798 of 2020

10. With the above direction, this Writ Petition is disposed. No costs. Connected miscellaneous petitions are closed.

20.03.2024

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

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R.N.MANJULA, J.,

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