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Writ Petition No.25210 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.25210 of 2024

S.Duraisamy
S/o.S.Subramanian

... Petitioner

Vs.

The State represented by
The Deputy Registrar,
S.607, Namakkal Agricultural Producers
Co-operative Sales Association Ltd.,
Namakkal.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondent to promote the petitioner as a Junior Assistant in S.607, Namakkal Agricultural Producers Co-operative Sales Association Limited with effect from the date of the juniors was promoted and to pay all consequential benefits within a stipulated period fixed by this Court.

For Petitioner : Mr.R.Vivekananthan

For Respondent : Mrs.M.Geetha Thamarai Selvan
Special Government Pleader



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ORDER

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This writ petition has been filed seeking issuance of a writ of mandamus directing the respondent to promote the petitioner as a Junior Assistant in the respondent Society from the date on which the juniors were promoted and to pay all consequential benefits.

2. Heard Mr.R.Vivekananthan, learned counsel for petitioner and Mrs.M.Geetha Thamarai Selvan, learned Special Government Pleader appearing for respondent.

3. The case of the petitioner is that he was working as a Cashier at Namakkal Amma Pharmacy. A complaint came to be given based on which the Directorate of Vigilance and Anti Corruption filed a First Information Report in Crime No.10 of 2018. The petitioner was also arrayed as an accused. The petitioner was suspended from service on the ground that he has misappropriated money from the sales made by the pharmacy. Disciplinary proceedings were also initiated against the petitioner and two others.



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4. The petitioner was reinstated into service by order dated 13.11.2017. Thereafter, disciplinary proceedings against the petitioner was also concluded by imposing punishment of cut in salary for 15 months from 01.04.2020 to 31.03.2023.

5. The grievance of the petitioner is that in the mean time on 11.02.2022, the respondent had communicated a seniority list and the name of the petitioner was also included in the promotion panel for the post of Junior Assistant. The name of the petitioner was not considered only on the ground that there is a criminal case pending. The petitioner made repeated representations for considering his promotion to the post of Junior Assistant mainly on the ground that pendency of the criminal proceedings cannot stand in the way of the respondent considering the promotion of the petitioner to the post of Junior Assistant. Since the representations did not evoke any response, the present writ petition has been filed before this Court seeking for appropriate directions.

6. Learned Additional Government Pleader appearing on behalf of respondent, based on the written instructions, received from the respondent submitted that the name of the petitioner has not been



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considered for promotion only on the ground that a criminal case is pending against the petitioner.

7. In the considered view of this Court, the departmental proceedings initiated against the petitioner has ended in punishment. Therefore, if at all, there is a bar for considering the promotion of the petitioner, there must be some departmental proceedings initiated and pending or it must be during the period of punishment undergone by the petitioner. In the instant case, the punishment has already been imposed against the petitioner in the departmental proceedings. Presently, what is pending against the petitioner is only a criminal case. Therefore, the only question is as to whether the promotion of the petitioner can be kept in abeyance on the ground that there is a criminal case pending against the petitioner.

8. The petitioner has taken a very specific stand that the pendency of a criminal investigation itself will not come in the way of the petitioner being considered for promotion. This issue raised by the petitioner must be necessarily considered by the respondent. The respondent cannot deny promotion only on the ground that there is a



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criminal case pending against the petitioner. Hence, there shall be a direction to the respondent to consider the request made by the petitioner for promotion to the post of Junior Assistant and pass appropriate orders within a period of six (6) weeks from the date of receipt of a copy of this order.

9. The petitioner is directed to make a fresh representation to the respondent along with all relevant documents and also a copy of this order.

This writ petition is disposed of with the above direction. No costs.

03.09.2024

Neutral Citation: Yes/No
Index: yes/no
Speaking Order/Non-Speaking Order
gm

To

The Deputy Registrar,
S.607, Namakkal Agricultural Producers
Co-operative Sales Association Ltd.,
Namakkal.



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N.ANAND VENKATESH, J

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