



W.P.(MD) No.20324 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20324 of 2022

A.Selvaraj

... Petitioner

Vs.

1.The Principal District Judge,
Principal District Court,
Thanjavur.

2.The Principal Subordinate Judge,
Principal Subordinate Court,
Kumbakonam,
Thanjavur District.

.... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to give the petitioner promotion retrospectively and disburse him the monitory and pensionary benefits as per the enhanced scale of pay within a stipulated time as fixed by this Court based on his representation dated 14.07.2022.

For Petitioner :Mr.S.Sankar

For R-1 & R-2 :Mr.N.Mohideen Basha



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ORDER

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[Order of the Court was made by D.KRISHNAKUMAR, J.]

The petitioner has filed this writ petition seeking for issuance of a Writ of Mandamus, directing the respondents to give promotion to the petitioner retrospectively and disburse him the monitory and pensionary benefits as per the enhanced scale of pay by considering his representation, dated 14.07.2022.

2. The case of the petitioner is that he joined the service as an Office Assistant on 19.02.1990 in Judicial Department. Subsequently, he was promoted as Assistant and thereafter as Grade-III Bench Clerk and subsequently, he was transferred to Kumbakonam and placed as Grade-II Bench Clerk. In the meantime, based on the complaint with regard to missing of case bundle, a charge-memo was issued and thereafter, charges were framed against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services(Discipline and Appeal) Rules. Thereafter, enquiry has been conducted and after enquiry, punishment of stoppage of one increment without cumulative effect was imposed on the petitioner on 27.04.2019.



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3. The grievance of the petitioner is that after the completion of the punishment period, the petitioner applied for promotion to the post of Head Clerk and the same was not considered. Subsequently, the petitioner retired from service on 31.05.2022. According to the petitioner if the respondents considered the petitioner's application, the petitioner would have got promotion. Hence, the petitioner has filed this writ petition with the aforesaid prayer.

4. A counter affidavit has been filed by the first respondent stating that considering the seriousness of the offence, the Disciplinary Authority, has passed the final order awarding stoppage of one increment without cumulative effect to the petitioner. The request of the petitioner for granting promotion was not considered for the reason that though the period of punishment is over on completion of one year from the date on which the aforesaid punishment is imposed, the writ petitioner has not been considered for promotion till the date of his retirement ie., on 31.05.2022 as per Schedule XI – Part A(11) of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016, since the punishment of stoppage of increment has been imposed within a period of five years prior to the crucial date and therefore, the writ petition filed by the petitioner is



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liable to be dismissed.
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5. We are also in agreement with the said statement made by the first respondent. Schedule XI – Part A(11) of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016, clearly states that any punishment (other than ‘Censure’) imposed on a member of service within a period of five years prior to the crucial date and a punishment of ‘Censure’ imposed within a period of one year prior to the crucial date shall be held against the member of service and his name shall not be considered for inclusion in the approved list. Any punishment, including ‘Censure’ imposed on a member of service after the crucial date, but before actual promotion or appointment shall be held against the member of service and he shall not be given promotion or appointment.

6. In the present case, the punishment has been imposed as against the petitioner within a period of five years prior to the crucial date. Therefore, the petitioner's request cannot be considered and the same has been rightly rejected by the authorities. Hence, there is no merit in this writ petition and the same is liable to be dismissed.



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8. In the result, this writ petition is dismissed. No Costs.

[D.K.K., J.]

[R.V., J.]

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Neutral Citation: Yes / No

Index : Yes / No

PM

To:

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2.The Principal Subordinate Judge,
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Kumbakonam,
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