



WA(MD). No.1292 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 12/08/2024

CORAM

**The Hon`ble Mr.Justice C.V.KARTHIKEYAN
and**

The Hon`ble Mr.Justice J.SATHYA NARAYANA PRASAD

**WA(MD). No.1292 of 2018 and
WMP(MD) No.8346 of 2018**

P.Vasu

... Appellant

Vs

1.The Additional Director General of Police &
Inspector General of Prison
Tamil Nadu, Chennai 600 008.

2.The Superintendent of Prison,
Central Prison,
Trichy 20

... Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent
against the order dated 12.02.2018 in WP(MD) No.9910/2014

For Appellants : M/s.R.Murugappan

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate



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WA(MD). No.1292 of 2018

JUDGMENT

The writ appeal has been filed questioning the order in WP(MD) No.9910/2014 dated 12.02.2018 passed by the learned single Judge, whereby the writ petition filed by the appellant herein was dismissed.

2. The appellant had filed the writ petition calling the records relating to an order No.21895/EW2/2013-2 dated 18.10.2013 passed by the first respondent, Additional Director General of Police and Inspector General of Prisons, Tamil Nadu, Chennai and the consequential intimation dated 18.11.2013 passed by the 2nd respondent, Superintendent of Prisons, Central Prison, Trichy and to quash both the orders and direct the respondents to give promotion to the petitioner as Grade I Warder for the year 2013-14 from November 2013 onwards.

3. The appellant had originally joined as Grade II Warder in the respondent's prison department on 15.04.2002. He would be eligible to be promoted as Grade I Warder after completing 12 years of service. This would indicate that he would be eligible to be considered for



WA(MD). No.1292 of 2018

promotion as Grade I Warder on and from 2014. The promotion list, which is in effect from November of every year, is prepared on 15th of July of that particular year. One of the condition is that as on 15th July, the individual, who is considered for promotion, should not have come to the adverse notice of the respondents and should not have been imposed with any punishment either minor or major. Unfortunately for the appellant, the appellant had come to the adverse notice of the respondents, since it is alleged that he had permitted some released prisoners to be with him in his official residence. As a fact, this allegation was held to be proved after show cause notice was issued and after his explanation was considered. Taking into consideration the various factors, an order of censure was passed by the first respondent on 19.10.2012 in Order No.5857/Fo.1/2012. This order had not been challenged by the petitioner. He had consented to the said order and the said order has been put into effect.

4. Rule 8 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1959 relates to penalties. It had been stated that for good and sufficient reasons, ,penalties which had been enumerated in the said



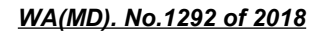
WA(MD). No.1292 of 2018

Rule, could be imposed upon every person, who is a member of the civil service of the State and every person holding the civil post under the State. Among other penalties, censure is one such penalty. Censure is normally termed as a minor penalty, however, it would be in operation for a period of one year.

5. In Schedule XI, which deals with procedure for preparation of approved list for promotions, in Sub Rule 11, it had had been stated that if a punishment of censure had been imposed within a period of one year prior to the crucial date, it shall be held against the member of the service and his name shall not be considered for inclusion in the approved list.

The said Rule 11 is extracted below for better understanding:

“(11) 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



not be given promotion or appointment."

Jailer.

those facts since the petitioner had not challenged the punishment in the



WA(MD). No.1292 of 2018

manner known to law and it had attained finality. He had subsequently been granted promotion to Grade I Warder in the subsequent year and Chief Head Warder in the year 2020. He had therefore abided by the terms of appointment and promotion in the said department, where he is working. The learned Judge had also observed that the promotion list would be drawn on 15th July of every year and on the said date, the appellant had not completed one year from the date on which censure was awarded against him. We find no reason to find fault with the observation of the learned single Judge.

8. In the counter filed on behalf of the respondents, it had been stated that under G.O.Ms.No.248 Prison and Administrative Reforms Department dated 20.10.1997 and subsequent amendment issued to General Rule 4(a) of the Tamil Nadu State and Subordinate Service vide G.O.Ms.No.24, personnel and administrative reforms department dated 24.02.2014, the punishment of censure imposed on a Government servant within a period of one year prior to the crucial date shall be held against the member of the service, his name shall not be considered for inclusion in the approved list. In the instant case, the date of punishment was



WA(MD). No.1292 of 2018

19.10.2012 and the crucial date is 15th July of every year and therefore as on 15.07.2013, the appellant had not completed one year from the date of imposing the punishment of censure.

9. It had also been held that the punishment of censure shall be valid for a period of one year from 19.10.2012 till 18.10.2013 which was forwarded by the Superintendent of Prison, Borstal School at Pudukottai to the appellant. Therefore, on 15.07.2013, the punishment was still in force.

10. In view of the same, the writ appeal stands dismissed. We would only like to observe that if the appellant is entitled for any further promotion, if there are no supervening circumstances and if he is otherwise eligible, the said opportunity should not be denied to the appellant. No costs.

(C.V.K.,J.) (J.S.N.P.,J.)
12.08.2024

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WA(MD). No.1292 of 2018

TO

1.The Director of Elementary Education
College Road, Chennai 600 006.

2.The District Elementary Educational Officer,
Madurai, Madurai District

3.The Assistant Elementary Educational Officer,
Thirumangalam
Madurai District



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WA(MD). No.1292 of 2018

C.V.KARTHIKEYAN, J.
and
J.SATHYA NARAYANA PRASAD, J.

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WA.(MD)No.908 of 2018

12.08.2024