



W.P.(MD)No.16564 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.09.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.16564 of 2017

and

W.M.P.(MD)No.13198 of 2017

H.Ganesan

... Petitioner

/Vs./

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Public (Law and Order) Department,
Fort St. George,
Chennai – 600009.
- 2.The Additional Director General Of Police
Cum Chief of Prison Department,
6, Whennels Road, Egmore,
Chennai - 600 008.
- 3.The Chairman,
Selection Committee and Deputy Inspector General of Prisons,
Vellore Range, Vellore - 632 002.
- 4.The Superintendent of Prison,
Pastor School and District Jail,
Pudukottai.



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5. The Additional Superintendent,
District Jail,
Nagapattinam.

6. Thirupathiah,
Deputy Jailor,
Special Jail,
Nanguneri,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the order No.354/Po.1/2017 dated 20.07.2017 passed by the 4th respondent and quash the same and consequently direct the 2nd respondent to include the petitioner's name at the place between 11 and 12 (i.e. as 11(a)) in the “List of Regularisation of service of Assistant Jailors for the year 2012-2013 to 2013-2014” communicated in the proceedings No.40379/ES.3/2015 dated 07.11.2016 of the 2nd respondent and promote the petitioner as Deputy Jailor from the date of promotion of his junior (ie. 6th respondent) and grant all the service and monetary benefits.

For Petitioner : Mr.B.Karunanithi

For Respondents : Mrs.D.Farjana Ghoushia

Special Government Pleader



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ORDER

This writ petition has been filed challenging the order dated 20.07.2017 passed by the fourth respondent rejecting the petitioner's request for regularization of the petitioner's services as Assistant Jailor for the year 2012-2013 to 2013-2014 on the ground that there is a currency of punishment as on 01.01.2014, which is cut-off date for the said promotion.

2. The written instructions has been received by the learned Special Government Pleader appearing for the official respondents, which is placed on record. As seen from the same, the fourth respondent has once again reiterated the contents of the impugned order.

3. However, as seen from the records placed on record before this Court, it is clear that as on 01.01.2014, there was no currency of punishment on the petitioner. Infact, it is seen that only subsequent to the cut-off date, the petitioner was imposed the punishment of one year stoppage of increment without cumulative effect and the said order was also challenged by the petitioner before the appellate authority and the



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petitioner had also succeeded in the said appeal on 28.02.2015 and therefore, even after the cut-off date ie., on 01.01.2014, though a punishment was imposed, the same has been set aside by the appellate authority.

4. The learned Special Government Pleader appearing for the official respondents would submit that apart from the aforesaid punishment, there was also a censure order imposed on the petitioner. But even that censure order is dated 28.05.2015 ie., after the cut-off date, which falls on 01.01.2014. Therefore, it is very clear that on the cut-off date, ie., on 01.01.2014, there was no currency of punishment on the petitioner and therefore, the petitioner's promotion to the post of Assistant Jailor for the period from 2012-2013 to 2013-2014 ought to have been regularized by the respondents. But, by total non-application of mind to the aforesaid facts, the fourth respondent has mechanically held in the impugned order dated 20.07.2017 that there was a currency of punishment imposed on the petitioner and therefore, he is not entitled to be regularized as Assistant Jailor for the period from 2012-2013 to 2013-2014.



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5. The learned counsel appearing for the petitioner also submits that though the petitioner's promotion to the post of Assistant Jailor was not regularized for the period from 2012-2013 to 2013-2014, thereafter, he was promoted to the post of Assistant Jailor and thereafter, he was also promoted as Deputy Jailor and he has now retired from service on 31.05.2018. The learned counsel appearing for the petitioner would also submit that the petitioner's junior, the sixth respondent herein was promoted as Deputy Jailor on 07.11.2016.

6. For the foregoing reasons, the impugned order dated 20.07.2017 passed by the fourth respondent has to be necessarily quashed and this writ petition will have to be allowed by granting liberty to the petitioner to submit a representation to the respondents with regard to the monetary benefits, which he had lost due to the illegality committed by the fourth respondent under the impugned order and a direction is issued to the respondents to consider the said representation on merits and in accordance with law, within a time frame to be fixed by this Court.



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7. In the result, the impugned order dated 20.07.2017 passed by the fourth respondent is hereby quashed and this writ petition is allowed by holding that the petitioner ought to have been promoted as Deputy Jailor on 07.11.2016 as is the case of his Junior (sixth respondent). Liberty is also granted to the petitioner to submit a representation, seeking for payment of monetary benefits, which he had lost on account of passing of the impugned order, which has now been quashed, to the second respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of said representation, the second respondent shall pass final orders on merits and in accordance with law, within a period of twelve weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
NCC : Yes / No
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ABDUL QUDDHOSE, J.

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Order made in
W.P.(MD)No.16564 of 2017

Dated:
05.09.2024