



W.A.No.2165 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.02.2025

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Coram:

**THE HON'BLE MR.JUSTICE S.S.SUNDAR
and
THE HON'BLE MR.JUSTICE C.SARAVANAN**

**W.A.No.2165 of 2023
and C.M.P.No.18539 of 2023**

- 1.The Principal Secretary and
Commissioner of Revenue Administration,
Chepauk, Chennai – 600 005.
- 2.The District Collector,
Vellore District, Vellore – 9.
- 3.The District Revenue Officer,
Vellore District, Vellore – 9.

...Appellants

Versus

A.Valliammal

...Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 24.07.2019 made in W.P.No.19908 of 2016 and allow the writ appeal.

For Appellants	:	Mr.G.Nanmaran, Special Government Pleader
For Respondent	:	Mr.K.Venkataramani, Senior Counsel for Mr.M.Muthappan



W.A.No.2165 of 2023

WEB COPY

JUDGMENT

(Judgment of the Court was delivered by **C.SARAVANAN, J.**)

This intra Court Appeal is preferred against the impugned order dated 24.07.2019 passed by the Writ Court in W.P.No.19908 of 2016.

2. The aforesaid writ petition was filed by the Respondent/Writ Petitioner for issuance of a writ of certiorarified mandamus to call for the records relating to the 3rd Appellant in R.C.No.A2.22737/2013-2 dated 23.11.2013 and the consequential order passed by the 2nd Appellant in so far as rejecting the appeal by modifying the punishment is concerned in R.C.No.A2.1297/2014 dated 06.05.2015 and the order rejecting the revision petition by the 1st Appellant in R.C.No.Service 4(4)/28880/2015 dated 28.12.2015 and quash the same and consequently, direct the Appellants to confer all the attendant and consequential benefits including the promotion post with due regards to her seniority.



W.A.No.2165 of 2023

WEB COPY 3. By the impugned order dated 24.07.2019, the Writ Court has disposed of the writ petition filed by the Respondent/Writ Petitioner in W.P.No.19908 of 2016 with the following observation:

“9. On account of the modification of the order of punishment passed by the Appellate Authority on 06.05.2015, which replaced the order of the Original Authority dated 23.11.2013, the Petitioner did not have any departmental proceedings or punishment against her on the crucial date i.e. 15.09.2015, when the panel for promotion to the post of Deputy Tahsildar was prepared. Hence, the Petitioner is entitled to be considered for promotion and accordingly, Respondents herein are directed to consider the case of the Petitioner for promotion to the post of Deputy Tahsildar on the crucial date, i.e. 15.09.2015, if she is otherwise eligible, by placing the Petitioner above her juniors and grant her other benefits, within a period of eight weeks from the date of receipt of a copy of this order.”

4. The Respondent/Writ Petitioner joined the Revenue Department as an Assistant on 11.01.2010. The background of the orders impugned in the writ petition is the Show Cause Notice dated 19.09.2013 issued under Rule 17(a) of the Tamil Nadu Civil Service (Disciplinary and Appeal) Rules to the Respondent/Writ Petitioner by the 3rd Appellant. The charges framed in the said Show Cause Notice dated 19.09.2023 are as follows:



W.A.No.2165 of 2023

WEB COPY

“Charge 1:

The important duty of the Revenue Inspector is to submit her fort nightly report, once in a fort night. But Tmt.A.Valliammal from the date of joining by her as Revenue Inspector 13.10.2012 upto 31.07.2013 has not submitted her report.

Charge 2:

At the time of District Administration Committee Meeting conducted by the District Revenue Officer at District Collectorate, it is instructed to submit the fort night report then and there and the same is neglected and not submitted the fort night report.

Charge 3:

Though the Revenue Inspector knows that she has to stay at her Head Quarters, she is not staying at her Head Quarters and daily goes and comes from Tirupattur.

Charge 4:

By not obeying her Higher Officers' orders violated Rule 20(1) of Tamil Nadu Government Servant Conduct Rules.”

5. In response to the aforesaid Show Cause Notice dated 19.09.2013, the Respondent/Writ Petitioner had submitted her explanation on 04.10.2013. However, the 3rd Appellant vide order dated 23.11.2013 bearing R.C.No.A2-22737/2013-2, imposed the punishment of **“stoppage of increment for a period of two years with cumulative effect on the**



W.A.No.2165 of 2023

Respondent/Writ Petitioner.”

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6. Aggrieved by the aforesaid order dated 23.11.2013, the Respondent/Writ Petitioner preferred an appeal before the 2nd Appellant on 27.12.2013. The 2nd Appellant vide order dated 06.05.2015 bearing R.C.No.A2.1297/2014, modified the punishment imposed on the Respondent/Writ Petitioner to **“stoppage of increment for a period of one year without cumulative effect.”**

7. Thereafter, challenging the aforesaid order dated 06.05.2015, the Respondent/Writ Petitioner preferred a Revision Petition before the 1st Appellant seeking to revise the order dated 06.05.2015 passed by the 2nd Appellant. However, the 1st Appellant vide order dated 28.12.2015, rejected the said Revision Petition filed by the Respondent/Writ Petitioner and confirmed the order dated 06.05.2015 passed by the 2nd Appellant.

8. Meanwhile, as per the Notification dated 03.11.2015 issued by the 1st Appellant, a panel for promotion to the post of 'Deputy Tahsildar' was



W.A.No.2165 of 2023

prepared for the year 2015 with the crucial date on 15.09.2015. However, the name of Respondent/Writ Petitioner was not included in the said panel for promotion to the post of 'Deputy Tahsildar' in lieu of the aforesaid disciplinary proceedings initiated against the Respondent/Writ Petitioner which culminated in the orders impugned in W.P.No.19908 of 2016. Hence, the Respondent/Writ Petitioner made a representation dated 18.01.2016 to the 1st Appellant with a request to include her name in the panel for promotion to the post of 'Deputy Tahsildar' for the panel year 2015. The said representation of the Respondent/Writ Petitioner was also forwarded to the 2nd Appellant on 19.01.2016. However, same was not considered.

9. It is in this background, the Respondent/Writ Petitioner challenged the aforesaid orders dated 23.11.2013, 06.05.2015 & 28.12.2015 in W.P.No.19908 of 2016 which culminated in the impugned order dated 24.07.2019 of the Writ Court, wherein, the Writ Court has stated that when the panel for promotion to the post of 'Deputy Tahsildar' was prepared with 15.09.2015 as the crucial date, the Respondent/Writ Petitioner was not



W.A.No.2165 of 2023

facing any departmental proceedings or punishment and hence, the Respondent/Writ Petitioner was entitled to be considered for promotion to the post of 'Deputy Tahsildar'. Challenging the order dated 24.07.2019 passed by the Writ Court in W.P.No.19908 of 2016, the Appellants have preferred the present writ appeal.

10. It is submitted by the learned Special Government Pleader for the Appellants that as per the Tamil Nadu Civil Service (Disciplinary and Appeal) Rules, persons appointed to the post of 'Assistant' by way of Direct Recruitment must complete 5 years of service as 'Assistant' (including Revenue Inspector service) for being promoted as a 'Deputy Tahsildar'.

10.1. It is further submitted that in the present case, the name of the Respondent/Writ Petitioner was not included in the panel for promotion to the post of 'Deputy Tahsildar' from qualified 'Assistant' based on the instruction given by the Government in Lr.(Ms.)No.248 Personnel and Administrative Reforms (S) Department dated 20.10.1997.



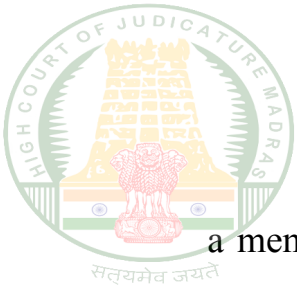
W.A.No.2165 of 2023

10.2. Relevant portion of the aforesaid Lr.(Ms.)No.248 Personnel and Administrative Reforms (S) Department dated 20.10.1997 is usefully extracted hereunder:

“Any punishment, other than 'Censure' imposed on an officer within a period of five years prior to the crucial date and a punishment of 'Censure' within a period of one year prior to the crucial date should be hold against the officer. In such a case, the officer's name should be passed over. Provided that an officer passed over once, need not be passed over for the second time on account of the same punishment at the time of subsequent consideration for the next panel.”

10.3. It is also submitted by the learned Special Government Pleader for the Appellants that as per Section 7(1) r/w. Schedule XI – Part II (11) & (12) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016, 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.

10.4. It is stated that any punishment, including 'Censure' imposed on



W.A.No.2165 of 2023

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. Therefore, it is submitted that the impugned order dated 24.07.2019 of the Writ Court in W.P.No.19908 of 2016 is liable to be interfered with.

10.5. That apart, it is submitted that the Respondent/Writ Petitioner had filed an appeal before the 1st Appellant requesting to include her name in the panel for promotion to the post of 'Deputy Tahsildar' for the panel year 2015, however, the 1st Appellant vide order dated 08.11.2016 in Proc.No.Ser.3(1)/4086/2016, rejected the appeal of Respondent/Writ Petitioner since the punishment imposed against the Respondent/Writ Petitioner was falling during the check period i.e., within a period of five years prior to the crucial date i.e., 15.09.2015.

11. On the other hand, defending the impugned order of the Writ Court, the learned Senior Counsel for the Respondent/Writ Petitioner submitted that the law on the subject has been clarified by the Full Bench of



W.A.No.2165 of 2023

this Court in the case of ***The Deputy Inspector General of Police & Anr.***

WEB COPY ***Vs. V.Rani*** (2011) 3 L.W.673 (W.A.(MD).Nos.315 of 2010 & etc. batch dated 27.04.2011), wherein, it was held that the Government Letters are not statutory rules framed under proviso to Article 309 of the Constitution of India and cannot be read either with Tamil Nadu Government Servants Conduct Rules, 1973 or under Tamil Nadu Civil Service (Disciplinary and Appeal) Rules.

11.1. Further, the learned Senior Counsel for the Respondent/Writ Petitioner submitted that no embargo can be put on the rights of government servants for being considered for promotion, after the period of punishment is over, in the name of check period viz., one year in the case of censure and five years in the case of other punishments. Therefore, the act of the Appellants not including the name of the Respondent/Writ Petitioner in the panel for promotion to the post of 'Deputy Tahsildar' for the panel year 2015 is illegal and impermissible under the statutory rules.

12. We have considered the arguments advanced by the learned



W.A.No.2165 of 2023

counsel on either side and have also perused the materials placed before us.

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13. In the present case, the crucial date for the panel for promotion to the post of 'Deputy Tahsildar' was on 15.09.2015. However, based on the instruction given by the Government in Lr.(Ms.)No.248 Personnel and Administrative Reforms (S) Department dated 20.10.1997, the name of Respondent/Writ Petitioner was not included in the panel for promotion to the post of 'Deputy Tahsildar' for the panel year 2015.

14. Though the Respondent/Writ Petitioner filed an appeal seeking to include her name in the panel for promotion to the post of 'Deputy Tahsildar' for the panel year 2015 stating that there were no disciplinary proceedings pending against the Respondent/Writ Petitioner as on the crucial date i.e. 15.09.2015, the same was however rejected by the 1st Appellant on the ground that punishment imposed on the Respondent/Writ Petitioner on 23.11.2013 was falling during the check period i.e.. within a period of five years prior to the crucial date.



W.A.No.2165 of 2023

WEB COPY

15. It is noticed that the Full Bench of this Court while dealing with an identical issue in the case of ***The Deputy Inspector General of Police & Anr. Vs. V.Rani*** (2011) 3 L.W.673 (W.A.(MD).Nos.315 of 2010 & etc. batch dated 27.04.2011) has held as follows:

“28. Therefore, after analysis of the entire law on the subject, we answer the reference as follows:

1) During the period of currency of minor punishment, an employee cannot claim as a matter of right to be promoted to the next category merely on the basis that he is otherwise fit for promotion and to that extent, the finding of the Division Bench in Subramanian v. Government of Tamil Nadu rep. by its Secretary, Chennai, [2008 (5) MLJ 350] stands overruled. It is needless to state that after the currency of punishment period, the Government servant is entitled to be considered for promotion to the next post, if otherwise eligible.

2) If any benefit has been conferred on the party to the judgment rendered by the Division Bench in Subramanian v. Government of Tamil Nadu rep. by its Secretary, Chennai, [2008 (5) MLJ 350], the same shall not be affected by the judgment of this Bench since there is a factual finding in that case that there was a technical lapse committed by the delinquent and no financial loss caused.

3) The detailed instructions issued by the Government in G.O.Ms. No. 368, Personnel and Administrative Reforms Department dated 18.10.1993 issued by the Chief Secretary to Government by order of the Governor, cannot be equated to the statutory rules framed under the proviso to Article 309 of the Constitution of India and it can utmost be administrative instructions issued under Article 162 of the Constitution of India. In any event, the said Government Order does not deal with the case of promotion of a Government servant during the currency of punishment.

4) The Government letter No. 18824/S/2005-2, Personnel and Administrative Reforms (S) Department dated 7.10.2005 with annexures 1 to 7 and the letter No. 248 (P&AR) Department dated 20.10.1997 are not statutory rules framed under proviso Article



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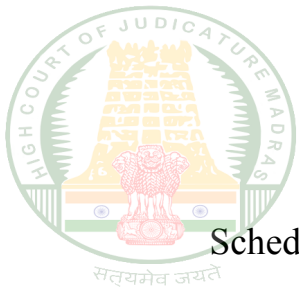
W.A.No.2165 of 2023

309 of the Constitution of India and cannot be read either with the Tamil Nadu Government Servants Conduct Rules, 1973 or under the Tamil Nadu Civil Service (Disciplinary and Appeal) Rules.

5) Consequently, the embargo put on the right of Government servant for being considered for promotion for a further period, after the period of minor punishment is over, in the name of check period viz., one year in the case of censure and five years in the case other minor punishments is illegal and impermissible under the statutory rules.”

16. In the light of the aforesaid decision of the Full Bench of this Court, the Government Letter in Lr.(Ms.)No.248 Personnel and Administrative Reforms (S) Department dated 20.10.1997 and the proceedings dated 08.11.2016 bearing Proc.No.Ser.3(1)/4086/2016 issued by the 1st Appellant are not sustainable. Therefore, it has to be held that the impugned order of the Writ Court does not suffer from any infirmity. Hence, this Writ Appeal is liable to be dismissed.

17. To get over the decision rendered by the Full Bench of this Court in ***The Deputy Inspector General of Police & Anr. Vs. V.Rani (2011) 3 L.W.673 (W.A.(MD).Nos.315 of 2010 & etc. batch dated 27.04.2011)***, the Tamil Nadu State Legislative Assembly had specifically incorporated



W.A.No.2165 of 2023

Schedule XI to the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. The aforesaid Act came into force only on 15.09.2016.

Proviso to Section 7(1) r/w. Schedule XI – Part II (11) & (12) of the said Act cannot be pressed against the Respondent/Writ Petitioner retrospectively by the Appellants.

18. We therefore find no merit in the challenge to the impugned order dated 27.04.2019 of the Writ Court in W.P.No.19908 of 2006. Hence, on this count also this Writ Appeal is liable to be dismissed.

19. Accordingly, this Writ Appeal is dismissed. The Appellants are therefore directed to comply the impugned order of the Writ Court, within a period of three months from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.)

(C.S.N., J.)

13.02.2025

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Index : Yes

14/16



W.A.No.2165 of 2023

Neutral Citation: Yes

WEB COPY Speaking Order (or) Non-Speaking Order

To

- 1.The Principal Secretary and
Commissioner of Revenue Administration,
Chepauk, Chennai – 600 005.
- 2.The District Collector,
Vellore District, Vellore – 9.
- 3.The District Revenue Officer,
Vellore District, Vellore – 9.



WEB COPY



W.A.No.2165 of 2023

S.S.SUNDAR, J.
and
C.SARAVANAN, J.

mrr

W.A.No.2165 of 2023



WEB COPY



W.A.No.2165 of 2023

13.02.2025