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W.P.No.3104 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.3104 of 2023

and

WMP.No.3172 & 3173 of 2023

V.Sivaraj

... Petitioner

Vs.

1.The Principal secretary to Government /
Commissioner of Labour
Chennai 06

2.The Additional Chief Secretary to Government
Labour Welfare and Skill Development Department,
Fort St.George, Chennai 09

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, Calling for the records of the 1st respondent in connection with the impugned order passed by him in Letter No. E2/ 12009/ 2022 dated 28.12.2022 and quash the same and direct the respondents to consider the claim of the petitioner for promotion as Deputy inspector of Labour in the panel year 2021-2022 (Seniority No. 1716) within a stipulated time without reference to the charge memo issued by the 1st respondent in Reference No. F1 / 21424/ 2022/ 1 dated 17.10.2022 and promote him as Deputy Inspector of Labour and grant him all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkatramani, Senior Counsel
for Mr.M.Muthappan

For Respondents : Ms.S.Anitha, Spl.GP
for R.1 & R.2.



ORDER

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“Calling for the records of the 1st respondent in connection with the impugned order passed by him in Letter No. E2/ 12009/ 2022 dated 28.12.2022 and quash the same and direct the respondents to consider the claim of the petitioner for promotion as Deputy inspector of Labour in the panel year 2021-2022 (Seniority No. 1716) within a stipulated time without reference to the charge memo issued by the 1st respondent in Reference No. F1 / 21424/ 2022/ 1 dated 17.10.2022 and promote him as Deputy Inspector of Labour and grant him all consequential service and monetary benefits.”

2. The brief facts giving rise to the writ petition are set out hereunder.

3. The petitioner had entered the service of the respondent as a Typist on 07.12.1994 in the office of the Deputy Inspector of Factories, Coimbatore, through a selection conducted by the TNPSC. Thereafter, he was promoted as Assistant Inspector of Labour on 04.02.2011. The petitioner's service has been unblemished and meritorious.



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4. The petitioner would submit that he had attained sufficient seniority and merit to claim promotion as a Deputy Inspector of Labour for the panel year 2021-2022. The crucial date for preparation of the panel for the post of Deputy Inspector of Labour for the year 2021-2022 was 01.05.2021.

5. On 14.03.2022, the 1st respondent had published a panel of Deputy Inspector of Labour for the year 2021-2022 and the petitioner's name was deferred on the ground that he had suffered a punishment of stoppage of increment for a period of one year without cumulative effect on 23.11.2018. The petitioner would submit that in spite of punishment suffered by him, his claim for promotion for the post of Deputy Inspector of Labour could not be denied for the reason that the incident for which he has been imposed with punishment relates to the year 2014 whereas the panel had been prepared for the year 2021-22.

6. The petitioner would submit that the punishment in question should have been effected from 01.01.2019 to 31.12.2019 instead it has been given effect to from the date of annual increment which falls on 01.07.2019. The petitioner would submit that as per the guidelines for promotion, the punishment would be given effect to from the date on which the punishment order is served on the Government Servant.



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7. The petitioner would submit that the punishment was imposed upon him vide proceedings dated 23.11.2018 and the punishment order was served on him on 06.12.2018 and therefore according to the petitioner, the period of punishment comes to an end on 31.12.2019. Therefore, the petitioner was eligible to draw the annual increment from 01.07.2020. However, by implementing the punishment from 01.07.2019 to 30.06.2020, the respondents are deliberately denying the petitioner his increment. As per the guidelines issued by the Government under Section 7(1), Annexures (11 and 14) of the Tamil Nadu Government Servants (Conditions of Service) Act 2016, a Government servant who has undergone a punishment for a delinquency committed five years prior to the crucial date shall be eligible for consideration for promotion to the next higher post, provided that the Government servant does not have any punishment on the date of promotion.

8. The petitioner would submit that the order of rejecting his claim for promotion for the panel year 2021-2022 was passed without following the above said guidelines. Challenging the same, the petitioner had filed WP.No.7748 of 2022. This Court by order dated 01.11.2022 had issued directions to the respondents to consider the claim of the petitioner for promotion to the post of Deputy Inspector of Labour for the panel year 2021-22 without reference to the punishment suffered by him. Thereafter,

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since the respondents had failed to comply with the orders of this Court, the petitioner had made representations on 16.11.2022, 18.11.2022 and 05.12.2022 to the respondents.

9. Thereafter, on 28.12.2022, the 1st respondent had passed the impugned order rejecting the claim of the petitioner on the ground that the petitioner was facing charge memo dated 17.10.2022. Aggrieved by the same, the petitioner is before this Court.

10. Heard the learned counsel on either side and perused the records.

11. Admittedly, the Rules provides that if a member of service is imposed with punishment for irregularities or delinquencies that were committed five years prior to the crucial date, his name shall be considered for promotion or appointment to a post, if the member of service is not undergoing such punishment on the crucial date or on the date of consideration for actual promotion.

12. In the instant case, the punishment was imposed on the petitioner on 23.11.2018, whereas the charge memo was issued to the petitioner only on 17.10.2022, i.e., long after the crucial date for preparation of the panel for the post of Deputy Inspector of Labour for the year 2021–2022, which



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was 01.05.2021. Further, this charge has also been dropped. That apart, the petitioner had challenged the communication dated 14.03.2022 in and by which the petitioner's objection to his name not being included in the panel for the year 2021-2022 was the subject matter in WP.No.7784/2022. By order dated 01.11.2022, the said order was quashed by this Court and the Writ Petition was allowed. The learned Judge relying upon clauses 11, 12 and 13 to Schedule XI of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 held that when the petitioner was not undergoing punishment on the crucial date of promotion or on the date of consideration for actual date of promotion, his name shall be taken into consideration for promotion and accordingly, this Court had allowed the Writ Petition with the following directions:-

“The respondent is directed to consider the claim of the petitioner for promotion as Deputy Inspector of Labour in the panel year 2021-2022 if he is otherwise eligible within a period of six weeks from the date of receipt of a copy of this order without reference to the punishment imposed on the petitioner in Proceedings F1/10323/2017 dated 23.11.2018 and promote him as Deputy Inspector of Labour and grant him with consequential service and monetary benefits.”



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13. Further, the charge memo dated 17.10.2022 would not be the impediment to include the petitioner's name in the panel for the post of Deputy Inspector of Labour for the year 2021–2022 as the same was issued much after the crucial date, namely, 01.05.2021. That apart, the charge framed against the petitioner has been dropped by the proceedings of the 1st respondents dated 15.10.2025 by observing as follows:-

“ The Commissioner of Labour has carefully and independently examined the charge framed against Thiru.V. Sivaraj, formerly Assistant Inspector of Labour, Ambattur and now Deputy Inspector of Labour, Tiruvallur, his explanation, findings of the inquiry officer and other connected records, the Inquiry Officer has arrived at the conclusion that there is no witnesses specifically mentioned about the engagement of Private individual by the delinquent officer, and thereby he concluded that charge is not held proved. Accordingly, it is decided to drop the charge against the delinquent officer.”

14. In view of the above, the Writ Petition stands allowed as prayed for. It is seen that pursuant to the interim order passed by this Court dated 07.02.2023, the petitioner has been promoted to the post of Deputy Inspector of Labour. Since the Writ Petition is allowed, the respondents



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shall not disturb the petitioner's position in the post of Deputy Inspector of Labour. No costs. Consequently, connected miscellaneous petitions are closed.

05.12.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The Principal secretary to Government /
Commissioner of labour
Chennai 06

2.The Additional Chief Secretary to Government
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Fort St.George, Chennai 09



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P.T. ASHA. J.,

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