



W.P.No.3980 of 2021

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

CORAM:

THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.3980 of 2021
and WMP.Nos.4546 & 4547 of 2021

C.Rajavelu

... Petitioner

Vs

1. The Directorate of Town Panchayats
MRC Nagar, Raja Annamalai Puram,
Chennai, Tamil Nadu 600 028.
2. The Assistant Director of Town Panchayats
Collectorate Complex, Vellore Zone,
Vellore.
3. The Assistant Director of Town Panchayats,
Salem Zone, Salem.
4. The Tamil Nadu Local Bodies Ombudsman,
Rep.by its Secretary,
No.100, Anna Salai,
Guindy, Chennai 600 032.

5. P. Prakash

.... Respondents



W.P.No.3980 of 2021

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari to call for the records of the 1st respondent in its Na.Ka.No.3228/2020/A7 dated 12.05.2020 and quash the same in respect of the 5th respondent.

For Petitioner : Mr.V.Vijay Shankar

For Respondents : Mr.M.Murali
Government Advocate for R1 to R4
Mr.T.Ramesh for R5

ORDER

This writ petition has been filed for issuance of a writ of certiorari to call for the records of the 1st respondent in its Na.Ka.No.3228/2020/A7 dated 12.05.2020 and quash the same in respect of the 5th respondent.

2. The petitioner is a Honorary President of the Tamil Nadu Government All Department Employees Union and has filed the above writ petition challenging the promotion of the 5th respondent as Executive Officer. According to the petitioner the fifth respondent was working as Junior Assistant, in the Town Panchayat establishment. With respect to an incident the authorities initiated departmental action against the 5th

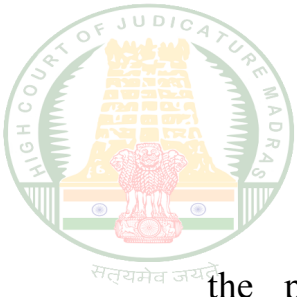


W.P.No.3980 of 2021

WEB COPY

respondent, under rule 17(b) of Tamil Nadu Civil Service Rules. After conducting detailed enquiry vide order dated 31.03.2016, a penalty of withholding of increments for 2 years, without cumulative effect was imposed on the 5th respondent. According to the petitioner, in terms of the Tamil Nadu Government Service (Conditions of Service Act) any punishment other than censure imposed on a Government servant within a period of 5 years prior to the crucial date shall be held against him for promotion to higher post and he shall not be considered for promotion. However, the 5th respondent, was included in the panel prepared for promotion on 26.07.2019 for preparation of which panel the cut off date fixed was 01.01.2008 and was promoted as Executive Officer, vide order dated 12.05.2020. Since the very inclusion of the 5th respondent's name for promotion as Executive Officer and the consequential order of promotion in his favour was in violation of the provisions of the Act and Rules, the petitioner filed the above writ petition.

3. The 2nd and 5th respondents filed a detailed counter denying the allegations raised by the writ petitioner and also questioned the locus of

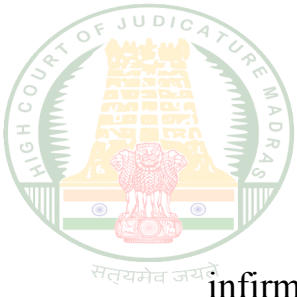


W.P.No.3980 of 2021

WEB COPY

the petitioner to challenge the impugned promotion order. The respondents stated that in the absence of any proof that the petitioner was authorised to file the writ petition on behalf of the Association, the writ petition ought to be considered as having been filed in the petitioner's personal capacity and since the petitioner was not aggrieved by the impugned order, the writ petition at the instance of the petitioner deserved to be dismissed as not maintainable.

4. On merits of the case, it was submitted that the 5th respondent was issued with charge memo on 06.05.2008, for the incidents that took place in the year 2002-03 to 2007-08. The final order of punishment was passed on 31.03.2016, and the 5th respondent completed the sentence of punishment on 31.03.2018. Further because of the currency of punishment, the 5th respondent was not considered for promotion in the panel years 2018-2019. Since there were no charges pending against the 5th respondent, for 5 years prior to the crucial date, the 5th respondent was considered for promotion in the panel prepared with crucial date as on 01.03.2020. The respondents therefore prayed that there was no



W.P.No.3980 of 2021

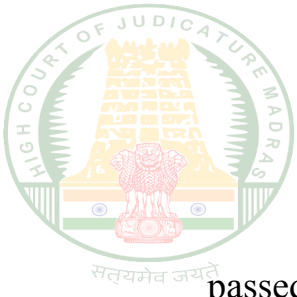
WEB COPY

infirmity in the impugned order and the writ petition was liable to be dismissed.

5. Heard both sides and perused the materials available on record.

6. The petitioner has filed the above writ petition in his private capacity even though he claims to be the Honorary President of Tamil Nadu All Department Employees Union. In the absence of any authority by the Union to file the writ petition on its behalf, the writ petition cannot be considered as filed by the Union. As the petitioner is in no way aggrieved by the impugned promotion order, the petitioner has no locus to file the writ petition. Hence, I find that the writ petition filed by the petitioner who is no way aggrieved by the impugned order is not maintainable.

7. Be that as it may, even on merits it is seen that the 5th respondent was issued with charge memo on 06.05.2008, for the incidents that took place in the year 2002-03 to 2007-08. The final order of punishment was



W.P.No.3980 of 2021

WEB COPY

passed on 31.03.2016 and the 5th respondent completed the sentence of punishment on 31.03.2018. Further he was not considered for promotion in the panel prepared for promotion as on the crucial dates viz., 01.03.2018 and 01.03.2019, since there were no charges pending against the 5th respondent for incidents 5 years prior to the crucial date and as the 5th respondent completed the sentence as on 31.03.2018, the 5th respondent was considered eligible for promotion in the panel prepared with crucial date as on 01.03.2020. Hence the promotion of the 5th respondent cannot be faulted. I therefore find that the writ petition fails not only on the ground of maintainability, but also on merits.

8. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

19.02.2025

dpq
Index: Yes/No
Speaking order / Non speaking order



W.P.No.3980 of 2021

WEB COPY

To

1. The Directorate of Town Panchayats
MRC Nagar, Raja Annamalai Puram,
Chennai, Tamil Nadu 600 028.
2. The Assistant Director of Town Panchayats
Collectorate Complex, Vellore Zone,
Vellore.
3. The Assistant Director of Town Panchayats,
Salem Zone, Salem.
4. The Tamil Nadu Local Bodies Ombudsman,
Rep.by its Secretary,
No.100, Anna Salai,
Guindy, Chennai 600 032.



WEB COPY



W.P.No.3980 of 2021

N. MALA, J.

dpq

W.P.No.3980 of 2021
and WMP.Nos.4546 & 4547 of 2021

19.02.2025