



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 4529 of 2025
And
W.M.P.No. 5052 of 2025

G.Babu

... Petitioner

..Vs..

1. The Government of Tamil Nadu
Rep. By its Secretary to Government
Department of Revenue
St. George Fort, Secretariat
Chennai – 600 009.
2. The Director
Department of Survey and Settlement
Chepauk,
Chennai – 600 005.
3. The Additional Director
Department of Survey and Land Records
Chepauk,
Chennai – 600 005.
4. The Deputy Director
Department of Survey and Land Records
Chepauk,
Chennai – 600 005.



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5. The Assistant Director
Department of Survey and Land Records
7th Floor, Chennai Collector Office
Singaravellar Maligai,
Chennai – 600 001.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 23.01.2025, and to include his name in the annual list of approved candidates for the post of Assistant Director for the year 2024-2025.

For Petitioner	:: Mr. Abrar Md.Abdullah for Mr.K.Sendurpandi
For Respondents	:: Mrs. R.Vijaya Devi Government Advocate

ORDER

The Writ Petition has been filed in the nature of a Mandamus seeking a direction against the respondents to consider the representation of the petitioner dated 23.01.2025, by which representation the petitioner sought inclusion of his name in the annual list of approved candidates for the post of Assistant Director for the year 2024-2025.



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2. In the affidavit filed in support of the Writ Petition, it had been contended that the petitioner had initially joined as field surveyor in the year 1997 on compassionate grounds and was subsequently promoted to various posts and in 2019, finally as Inspector of Survey in the Department of Survey and Land Records at Chennai.

3. It is further contended that in accordance with the notification of the Government, Revenue and Disaster Management, on and from 05.12.2019, the crucial date for putting up annual list of approved candidates for appointment to the post of Assistant Director would be 22nd February of every year.

4. The petitioner claims that as on 22.02.2024, he was eligible to be considered for promotion to the post of Assistant Director of Office of the Joint Director of Survey, Central Survey Office, Chennai. But the name of the petitioner had not been included in the list of approved candidates to be so considered to the post of Assistant Director. The reason why the petitioner's name was not included was that subsequently, on 06.03.2024, a show cause notice had been issued to the petitioner and on conclusion of enquiry, he had been imposed with a punishment of cut of increment without cumulative



effect for three months.

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5. The learned counsel for the petitioner pointed out that the said punishment is a minor punishment and as per Rule 8 of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, it could not be the basis for withholding consideration of the petitioner to the promotional post.

6. In this connection, the learned counsel placed further reliance on the Judgment of Division Bench of this Court in ***W.A.No. 1184 of 2015 [the Government of Tamilnadu represented by its Secretary to Government, Commercial Taxes and Registration Department, Chennai and another Vs. P.Sundar]***, wherein the Division Bench had held as follows:-

“11. Adverting to the facts of the present case we find that none of the charges framed against the respondent would fall within the parameters laid down in the guidelines issued by the Government. This being so we do not think that the appellants were justified in framing charges under Rule 17(b) even for minor delinquencies and thereby denying promotion to the respondent. We must point out that even though the



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Disciplinary Authority has found the respondent guilty of the charges imposed only a minor punishment of stoppage of increment that too without cumulative effect. The said punishment by itself does not operate as a bar for promotion. If so the appellants cannot by framing charges for trivial derelictions under Rule 17(b) deprive promotion to the respondent.

12. The learned single judge had taken note of the settled position of law and has concluded that even though the punishment imposed on the respondent cannot be set aside the denial of promotion on the ground that the enquiry into grave charges were pending against him cannot be sustained. We are of the considered opinion that the conclusions of the single judge do not warrant interference at our hands.

13. For the foregoing reasons this intra-court appeal is dismissed confirming the judgment of the learned single judge directing the appellants to consider the claim of the respondent for promotion to the post of Sub Registrar Grade I on par with his juniors if he is otherwise found eligible. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of the order. However in the circumstances of the case there will be no order as to



costs. Consequently, the connected miscellaneous petitions are closed.”

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7. However, on the side of the respondents, reliance had been placed on the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 which incidentally had not been considered by the Division Bench wherein Rule 11 in Schedule-II provided as follows:-

“(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 shall be held against the member of service and he shall not be given promotion or appointment. ”

8. It is thus contended on behalf of the respondents that the said punishment would act as a bar from granting promotion.



9. The learned counsel for the petitioner then drew the attention of this Court to the notification referred supra wherein the crucial date for consideration of promotion was 22nd February of every year and then pointed out the date of issuance of show cause notice was 06.03.2024, which was subsequent to that date and therefore claimed that as on 22.02.2024, there was no bar for the petitioner to be considered for the post of Assistant Director.

10. That argument has to be considered with much force since on 22nd February of every year, the respondents or even the petitioner could ever have visualised that after about two weeks, the respondent would issue a show cause notice to the petitioner herein.

11. In view of that particular fact, since as on the crucial date for consideration of promotion to the post of Assistant Director, the petitioner had not been issued with any show cause notice and not imposed with any penalty, minor or major, I hold that the petitioner had a legitimate expectation to be considered for the promotive post.

12. A direction is therefore issued to the respondents to consider the representation of the petitioner in its proper light and examine the records and determine whether as on 22.02.2024, the



respondents had issued any show cause notice against the petitioner and if not, to include the name of the petitioner to be considered for promotion to the post of Assistant Director, Department of Survey and Land Records, Chennai. A Mandamus is issued to consider the said representation within a period of three weeks from the date of receipt of a copy of this order.

13. The Writ Petition stands allowed. Consequently, connected Miscellaneous Petition stands closed. No order as to costs.

17.02.2025

vsg
Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order

To

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