



W.A.No.1255 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A.No.1255 of 2023

1. The District Collector
Kancheepuram District
Kancheepuram.

2. The Additional Chief Secretary
Commissioner of Revenue
Administration, Chepauk
Chennai – 5.

.. Appellants

Vs.

R.Sivakumar

.. Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 29.09.2021 made in W.P.No.17339 of 2014.

For the Appellants : Mr.P.Muthukumar
Additional Advocate General
assisted by Mr.R.Kumaravel
Additional Government Pleader

For the Respondent : Mr.K.Venkataramani
Senior Counsel
for Mr.M.Muthappan

JUDGMENT

(Judgment of the Court was authored by R.SURESH KUMAR, J.)

This intra-Court appeal has been directed against the order passed by the Writ court dated 29.09.2021 made in W.P.No.17339 of 2014.



W.A.No.1255 of 2023

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2. That the respondent/writ petitioner was working as a Tahsildar at the appellant Department, that is the Revenue Department. His name became due to be included in the Panel, fit for promotion to the post of Deputy Collector, for the Panel Year 2008-09 with the crucial date 31.12.2007. However, before the crucial date, there has been a disciplinary proceedings initiated against him under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, where, ultimately, the punishment of Censure has been imposed upon him on 14.12.2007.

3. Since the punishment of Censure was imposed on 14.12.2007, according to the appellant Department, within one year period from the punishment date, if the crucial date falls, he cannot be empaneled. That is the reason why for the Panel Year 2008-09, with the crucial date 31.12.2007, his name has not been included to be fit for promotion to the post of Deputy Collector. Subsequently, by the order dated 26.09.2011, the very punishment of Censure, having been considered, was set aside by the order of this Court.

4. With this background, since he already filed writ petitions, that is W.P.Nos.30561 and 30079 of 2008 and also subsequently



W.A.No.1255 of 2023

filed a writ petition, that is W.P.No.17339 of 2014, all these writ petitions were heard together and decided by the common order, which is impugned herein. In the writ petition in W.P.No.17339 of 2014, the prayer sought by the writ petitioner was a writ of certiorarified mandamus, calling for the records of the respondents therein in connection with the impugned order therein passed by the second respondent therein vide proceedings dated 30.01.2014 and to quash the same. These writ petitions were decided through the impugned order dated 29.09.2021.

5. Assailing the said order, *Mr.P.Muthukumar*, learned Additional Advocate General, appearing for the appellants, would contend that insofar as the Panel Year 2008-09 is concerned, the crucial date was 31.12.2007. Before the said crucial date, on 14.12.2007, the punishment of Censure has been imposed upon the respondent/writ petitioner, before which, the charge was also pending. Therefore, on the date of 31.12.2007, since the punishment of Censure also has been imposed, that will have an impact for a period of one year, within which, if the crucial date falls, he cannot be included in the Panel, to be fit for promotion from the post of Tahsildar to the post of Deputy Collector. Therefore, the denial of promotion to the respondent/writ petitioner



W.A.No.1255 of 2023

for the Panel Year 2008-09 was justified. That aspect has not been considered in proper perspective by the learned Writ Court in passing the orders through the impugned order, therefore, it is liable to be interfered with, he contended.

6.1. We have also heard *Mr.K.Venkataramani*, learned Senior Counsel for the respondent/writ petitioner, who would submit that, in the first round of litigation, in fact, the punishment of Censure dated 14.12.2007 imposed upon the respondent/writ petitioner was under challenge, where, this Court, by the order dated 26.09.2011, having set aside the order passed by the Disciplinary Authority, had remitted the matter back to the Disciplinary Authority for reconsideration, as the order of punishment dated 14.12.2007 was a non-speaking order. However, subsequently, once again, similar order has been passed on 30.01.2014, therefore, it became necessitated for the respondent/writ petitioner to file W.P.No.17339 of 2014, challenging the order dated 30.01.2014.

6.2. He would also submit that, the said order of punishment dated 30.01.2014 passed second time after the remand order also is an order passed without application of mind. On that ground, the Writ Court in the present impugned order has set aside the order of



W.A.No.1255 of 2023

punishment dated 30.01.2014. Therefore, both the punishment orders since have been set aside by two separate orders passed by the Writ Court, there has been no punishment in the eye of law, hence, there could not have been any impediment for the respondent/writ petitioner to be included for promotion in the Panel Year 2008-09. Hence, the orders passed by the Writ Court, which is impugned herein, with directions is justifiable and therefore, it has to be sustained, accordingly, it does not warrant any interference at the hands of the Division Bench, he contended.

7. We have considered the said submissions made by learned counsel appearing for both sides and have perused the materials placed before this Court.

8. The respondent/writ petitioner otherwise would have been liable to be included in the Panel, fit for promotion to the post from Tahsildar to Deputy Collector, for the Panel Year 2008-09 with the crucial date 31.12.2007. However, since already there has been a disciplinary proceedings initiated under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, and because of the disciplinary proceedings, the punishment of Censure has been imposed by the order dated 14.12.2007. As there has been a



W.A.No.1255 of 2023

punishment of Censure imposed on 14.12.2007 and since the crucial date falls on 31.12.2007, he was not included for promotion in the Panel Year 2008-09. However, the said punishment order dated 14.12.2007 since has been challenged in the writ petition as referred to above and that was also set aside by the order dated 26.09.2011 in the remand order, in the meanwhile, for the Panel Years 2009-10, 2010-11 and 2011-12 also, the respondent/writ petitioner had not been considered for promotion. Pursuant to the remand order dated 26.09.2011, the appellant Department once again considered the case of the respondent/writ petitioner and passed the order of punishment of Censure on 30.01.2014.

9. We have gone through the order dated 30.01.2014, which is impugned in the writ petition before the Writ Court, where, only the following reasons have been given in paragraph 3 of the order for making such punishment:-

"3) In this disciplinary case, the charges levelled against him, his explanation and his explanation offered by him during his personal hearing on 20.01.2014 were perused carefully and without bias, all the charges levelled against him are held as proved and the punishment of censure awarded by District Collector, Kanchipuram is confirmed and orders passed thus."



W.A.No.1255 of 2023

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10. On perusal of this paragraph 3 of the order dated 30.01.2014, we do not find any reason as to why the Disciplinary Authority has come to the conclusion that the delinquent is liable to be punished, that is the punishment of Censure. Only for the purpose of passing a detailed order after applying their mind and after giving a reason as to why if at all any punishment has to be given, as has been directed by this Court by the order dated 26.09.2011, once again, the Disciplinary Authority has passed an order, as stated above, where also, there has absolutely been no reason given as to why they have come to such a conclusion to reiterate the earlier punishment of Censure to be once again imposed upon the delinquent.

11. That is the reason why the learned Judge of the Writ Court in the present impugned order has made it very clear that, since the Disciplinary Authority, being a quasi-judicial Authority, must have applied its mind and come to such a conclusion as to why such a punishment has been imposed upon the delinquent. Without any reasons, merely recording the defence statement given by the delinquent, if any punishment is imposed, that would not meet the requirements under the procedures contemplated under



W.A.No.1255 of 2023

law. Therefore, on that ground, the learned Judge, in fact, has set aside the second punishment order dated 30.01.2014.

12. The said approach of the Writ court cannot be found fault with, as there has been strong reason to set aside the order dated 30.01.2014.

13. Now, coming to the relief to be given to the respondent/writ petitioner, as on 14.12.2007, in fact, the punishment of Censure was imposed, which was set aside by the order dated 26.09.2011. Subsequently, the second punishment order dated 30.01.2014, after the remand order, also since has been quashed now or set aside now by the order impugned herein, absolutely, there is no punishment against the delinquent. It is brought to our notice that from the year 2012-13, the respondent/writ petitioner has been considered and promotion has been given to him. For the period from 2008-09 to 2011-12, on what reason since the promotion has been withheld is because of the punishment order dated 14.12.2007, which has been already set aside and the second punishment order, pursuant to the remand order, though had been given on 30.01.2014, on the same ground of non-application of mind, since that order also has been set aside



W.A.No.1255 of 2023

by the learned Single Judge, which we also approve, we are of the considered view that there could be no further impediment for the respondent/writ petitioner to claim promotion with effect from 2008-09.

14. Therefore, the impugned order allowing these writ petitions by making directions to that effect for giving such promotion to the post of Deputy Collector, at least notionally, to the respondent/writ petitioner, since he has already retired from the service on 30.01.2014, could be a justifiable one.

15. Therefore, we are inclined to dispose of this writ appeal with the following orders:-

(i) That the impugned order passed by the Writ Court is liable to be sustained, accordingly it is sustained. As a sequel, there shall be a direction to the appellant Department to consider the candidature of the respondent/writ petitioner fit for promotion to the post of Deputy Collector from Tahsildar for the Panel Year 2008-09.



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W.A.No.1255 of 2023

(ii) Accordingly, such a promotion shall be effected notionally to him and based on which, his service benefits shall be calculated, including pensionary benefits and accordingly, these benefits shall be conferred upon the respondent/writ petitioner and the same shall be complied with within a period of three months from the date of receipt of a copy of this order.

16. With these directions and observations, the writ appeal stands disposed of. However, there shall be no order as to costs. Consequently, C.M.P.No.12558 of 2023 is closed.

(R.S.K., J.)

(A.D.M.C., J)

15.04.2025

Speaking Order/Non-Speaking Order

Index: Yes/No

Neutral Citation:Yes/No

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W.A.No.1255 of 2023

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WEB COPY

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W.A.No.1255 of 2023

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W.A.No.1255 of 2023

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