



W.P.No.33488 of 2014

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

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THE HON'BLE MR. JUSTICE RMT.TEEKAA RAMAN

W.P.No.33488 of 2014
and M.P.Nos.1 to 3 of 2014

Judgment reserved on 24.02.2025	Judgment pronounced on 18.03.2025
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P.Sivaprakasam

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Petitioner

Vs

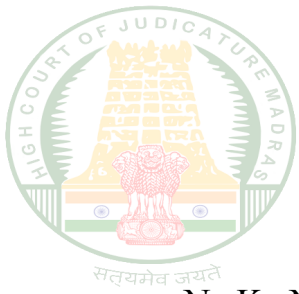
1.Tamil Nadu Civil Supplies Corporation Ltd.,
Rep.by its Managing Director,
No.12, Thambusamy Road,
Kilpauk, Chennai – 600 010.

2.Tamil Nadu Civil Supplies Corporation Ltd.,
Tiruppur Region,
Rep.by its Regional Manager (General),
Thiruppur District.

...

Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records relating to the panel made in Proc.No.AE4/51397/2013 dated 22.01.2014 by the 1st respondent and th consequential orders made in Na.Ka.No.E1/2978/2013 dated 12.11.2014, Na.Ka.No.E1/2978/2013 (i) dated 13.11.2014, Na.Ka.No.E1/2978/2013/(ii) dated 13.11.2014 and



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Na.Ka.No.E1/2978/2013 (iii) dated 13.11.2014 passed by the 2nd respondent so far it is against the petitioner and quash the same and consequently direct the respondents to include the name of the petitioner at appropriate place in the panel of Superintendent for the year 2013 published in Proc.No.AE4/51397/2013 dated 22.01.2014 published by the 1st respondent and promote the petitioner to the post of Superintendent with all attendant benefits.

For Petitioner : Mr.G.Ethirajulu
For Respondents : Mr.C.Selvaraj

ORDER

This writ petition has been filed calling for the records relating to the panel made in Proc.No.AE4/51397/2013 dated 22.01.2014 by the 1st respondent and the consequential orders made in Na.Ka.No.E1/2978/2013 dated 12.11.2014, Na.Ka.No.E1/2978/2013 (i) dated 13.11.2014, Na.Ka.No.E1/2978/2013/(ii) dated 13.11.2014 and Na.Ka.No.E1/2978/2013 (iii) dated 13.11.2014 passed by the 2nd respondent so far it is against the petitioner and quash the same and consequently direct the respondents to include the name of the petitioner at appropriate place in the panel of Superintendent for the year 2013 published in Proc.No.AE4/51397/2013 dated 22.01.2014 published by the 1st respondent and promote the petitioner to the post of Superintendent with all attendant benefits.



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2. The factual matrix of the case is as under -

2(a) The petitioner was originally appointed as Bill Clerk on 19.04.1984 in Civil Supplies Corporation, Erode and subsequently promoted as Junior Assistant on 21.02.1997. His name was included in the panel of Junior Assistant and Typist vide office proceedings dated 22.12.2009 and he was promoted as Assistant on 26.03.2010.

2(c) According to the petitioner, on 12.02.2010, charge memo was issued alleging that he has not discharged his supervisory jurisdiction properly against the employees of the Corporation. After enquiry, stoppage of increment for four months without cumulative effect was awarded on 20.12.2010. Thereafter, three months increment was stopped from 01.01.2011 to 31.03.2011.

2(d) According to the petitioner, minor punishment was issued under service regulations. On 22.01.2014, the 1st respondent herein in his office proceedings No.AE4/51397/2013 drawn a panel of Superintendent for the year 2013 wherein the petitioner name was not included but in the



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annexure under the heading II, list of name not eligible due to currency of punishment, it was shown that the petitioner's name has not been included in the list due to currency of the punishment. The 2nd respondent herein in his office proceedings Na.Ka.No.2978/2013/E1 dated 03.09.2014 forwarded the name of the petitioner and another employee to the 1st respondent for including their name in the panel for the post of Superintendent for the year 2014.

2(e) The 2nd respondent herein in his office proceedings Na.Ka.No.E1/2978/2013 dated 12.11.2014 passed an order holding that the promotion for the post of Assistant was wrongly given to the petitioner on 26.03.2010 without verifying the departmental enquiry pending against him during the relevant period in respect of major punishment and therefore, he was reverted back to the post of Junior Assistant and also directed the Superintendent (Administration) Tiruppur to enter the same in the petitioner's record.

2(f) The 2nd respondent herein in his office proceeding Na.Ka.No.E1/2989/2013 dated 13.11.2014 passed an order stating that since



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a punishment of stoppage of increment for 3 months without cumulative effect was awarded against the petitioner on 20.12.2010, his name cannot be included in the list of panel of Assistant for the year 2011 and therefore, after expiry of the currency of the punishment period, his name was included in the panel of the year 2012 in terms of the order dated 07.01.2013 made in Na.Ka.No.E2/3243/2012 passed by the 2nd respondent. In view of the above fact, the petitioner's name was included in the list of Junior Assistant above one Mr.K.Govindaraj.

2(g) On 13.11.2014 itself, the 2nd respondent herein in his office proceeding Na.Ka.No.E1/2978/2013/(ii) passed an order promoting the petitioner to the post of Assistant with effect from 05.03.2013. The 2nd respondent herein, in his office proceeding Na.Ka.No.E1/2978/2013/(iii) dated 13.11.2014 communicated an order by holding that the petitioner was promoted to the post of Assistant only on 05.03.2013 after reversion and therefore he has completed the service of 1 year 5 months and 26 days only in the post of Assistant till 30.09.2014 and therefore his name cannot be included in the panel for Superintendent.



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3. The petitioner attained superannuation on 31.05.2015. It is alleged that due to the wrong approach of the respondents, the petitioner was denied promotion.

4. The learned counsel for the petitioner draw my attention to the dates and events filed by him. Charge memo, in respect of certain lapses, was issued on 12.02.2010 against the petitioner and the petitioner was given promotion as Assistant in Tharapuram on 26.03.2010. Thereafter, on completion of enquiry, punishment of stoppage of increment for a period of three months with cumulative effect from 01.01.2011 to 31.03.2011 was passed on 20.12.2010. The learned counsel for the petitioner submitted that subsequently, the petitioner was reverted back citing that the 2nd respondent has passed an order reverting him from Assistant to Junior Assistant on 12.11.2014, however, on the very next date i.e., 13.11.2014, he was given promotion as Assistant.

5. Heard the learned counsel for the petitioner as well as respondents and perused the materials on record.



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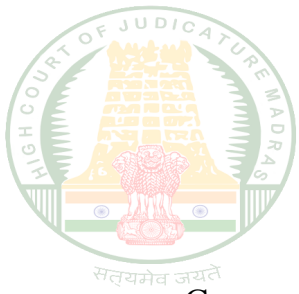
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6. The main grievance of the petitioner is that on the date of promotion as Assistant, there is no punishment and hence the reasons assigned for reversion is not proper. Furthermore, as per the regulation governing the service conditions of the Tamil Nadu Civil Supplies Corporation, it is only a minor charge resulting in stoppage of increment for three months and hence it has to be ignored.

7. The short point that arises for consideration is that “during pendency of the enquiry, whether the petitioner can be promoted or not”.

8. According to the regulation, if it is a minor charge, it can be ignored and if it is a major charge, it has to be held against the delinquent.

9. Based upon the counter filed by the respondent, the learned Additional Government Pleader contended that the Regional Manager, in his proceedings dated 28.11.2008, published list of Junior Assistants whose names have been considered but not included in the panel of Assistant for the year 2008 due to pending charges/currency of punishment/not passing the

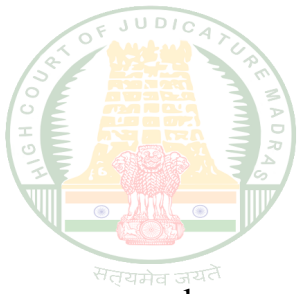


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Commercial Book Keeping test, etc. In the said list, under S.No.7, Thiru.P.Sivaprakasam/writ petitioner name was specified indicating the following remarks "He has been inflicted stoppage of increment for 6 months without cumulative effect" vide Regional Manager Erode Proceedings Rc.No.E9/1591/2006, dated 30.06.2006. The petitioner has been inflicted stoppage of increments for 6 months without cumulative effect vide Regional Manager, Erode Proceedings Rc.No.E5/3456/2006, dated 12.03.2007.

10. As per the counter, charge memo is dated 12.02.2010. After enquiry, punishment of stoppage of increment for three months without cumulative effect was inflicted on the petitioner vide proceedings of the 2nd respondent dated 20.12.2010. Since the petitioner's name was wrongly included in the panel for Assistant for the year 2009, he was promoted on 20.06.2010. On 05.09.2013, the Regional Manager sent a proposal to promote the Assistant as Superintendent. On verification, the discrepancy has surfaced that due to the currency of punishment of stoppage of increment for three months without cumulative effect was running, the name of the petitioner ought not to have been included in the panel and ought not to have

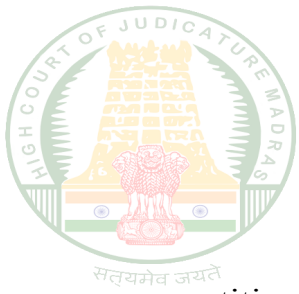


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been promoted. Accordingly, the Head Office has informed the Administration staff to set the things right.

11. On perusal of the proceedings of the 1st respondent in his proceedings dated 22.01.2014, it is clearly mentioned that in the list of Assistant working in the regions for the panel of Superintendent for the year 2013 and whose name have been considered but not included for the currency of punishment has been published. In the said list, under caption II, list of name not eligible due to currency of punishment was listed in Srl.No.4.

12. The Regional Manager, Tiruppur by a communication dated 12.11.2014 has informed that the name of the petitioner was recommended for promotion as Superintendent, without considering the pendency of charge memo, the action of promoting the petitioner as Assistant itself was irregular against prevailing rules in force, instructed to send a report setting right the issue. Accordingly, the impugned order dated 26.03.2010 was issued and promotion given to the petitioner on 26.03.2010 was cancelled which was pending charge memo and pending currency of the proceedings. The



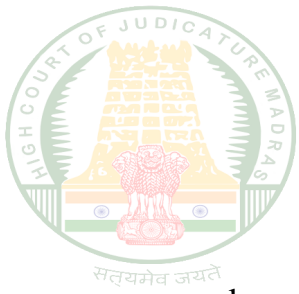
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petitioner was reverted to Junior Assistant by an order dated 12.11.2014.

Subsequently, he was fitted in the panel for the year 2012 assigning seniority above one K.Govindaraj, Juniot Assistant, by an order dated 13.11.2014.

On 31.01.2015, the petitioner attained the age of superannuation. While considering the panel for the year 2008, to promote the incumbents from the category of Junior Assistant to Assistant, there were two punishments against the petitioner and hence he was not included in the panel.

13. On the above factual matrix, I find that the service conditions of the employees of the Tamil Nadu Civil Supplies Corporation was governed by Tamil Nadu Civil Supplies Employees' Service Regulations, 1989. The instructions / orders issued by the Government of Tamil Nadu were adopted by the Tamil Nadu Civil Supplies Corporation then and there. Accordingly, the guidelines issued by the Government of Tamil Nadu for awarding promotion are also adopted by the Tamil Nadu Civil Supplies Corporation. As per the said guidelines, any punishment other than censure imposed on the officer within a period of five (5) years prior to the crucial date should be held against the officer. Further that charges framed under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules

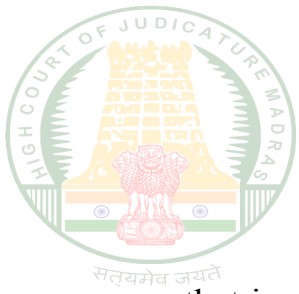


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and any of the punishment awarded after the crucial date but before actual promotion shall also be held against the officer.

14. On applying the above regulations, this court finds that while drawing the panel for the year 2009 vide Senior Regional Manager, Tiruppur proceedings Na.Ka.No.E1/726/2010 dated 26.03.2010, the currency of punishment was in force as narrated above and charges framed in Senior Regional Manager, charge memo dated 12.02.2010 was also pending. Without taking into the currency of punishment and pendency of charge memo, the Senior Regional Manager, Tiruppur inadvertently included the petitioner in the list of eligible Assistant and gave promotion as Assistant which is not in consonance with the provisions of Service Regulations of the Corporation. Thus, I find that, while exercising the panel for the year 2013 for the post of Superintendent, the discrepancy that the petitioner was undergoing the currency of punishment and serious charges under Section 17 (b) was there. Though after enquiry, only stoppage of increment was granted, the discrepancy in the promotion was noted and accordingly he was reverted and suitably fixed in the revised panel above one K.Govindaraj. Thus, I find that the submissions made on behalf of the official respondents

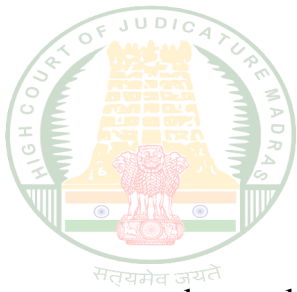


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that inadvertent promotion has been given to the petitioner and subsequently settled by reverting the petitioner since admittedly and undisputedly on the date of promotion, there was a pendency of charge warranting major punishment as well as currency of punishment. (for which no need to provide opportunity).

15. After perusing the affidavit and counter affidavit, I find that the petitioner has suppressed award of stoppage of increment for six months without cumulative effect by the Regional Manager, Erode on 12.03.2007. Further, even in the names recommended initially for promotion, it was specifically mentioned in the category that he is not eligible, as extracted supra. For the reasons best known, the petitioner has suppressed the above material fact. Since the petitioner has already retired, this Court is not precipitating further. Since the petitioner was facing charge and enquiry for major punishment, his name was not included. Subsequently, after the enquiry, minor punishment was imposed on the petitioner. Therefore, I have no hesitation to reject the contention of the learned counsel for the petitioner. The petitioner tried to mislead the court by saying that he was facing the enquiry for minor punishment and since minor punishment was imposed, it



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has to be on the date of initial promotion as Assistant. He was facing grave charges leading to major punishment and hence action of the respondent cannot be found fault.

16. When the very basic promotion as Assistant itself is wrong, I find that subsequent inclusion of panel for the category of Superintendent does not arise while drawing the panel of Superintendent, the petitioner was not in the category of Assistant and hence consideration of petitioner's name for the category of Superintendent does not arise and therefore, I find that the Writ Petition is devoid of merits and liable to be dismissed.

17 . Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

.03.2025

rgr

Index : Yes/No

Speaking/Non-speaking order



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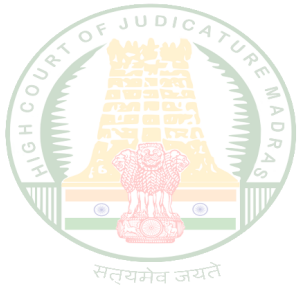
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After pronouncing order, it is represented by the learned counsel for the petitioner that in view of the pendency of the case, the terminal benefits are not disbursed.

2. In view of the above, the retirement benefits shall be settled within a period of six (6) months from the date of receipt of a copy of this order.

18.03.2025

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RMT.TEEKAA RAMAN, J.

rgr

To

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation Ltd.,
No.12, Thambusamy Road,
Kilpauk, Chennai – 600 010.

2.Rep.by its Regional Manager (General),
Tamil Nadu Civil Supplies Corporation Ltd.,
Tiruppur Region, Thiruppur District.

Pre-delivery Order in
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18.03.2025