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W.P. No.18666 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2025

CORAM :

THE HONOURABLE Ms. JUSTICE **R.N.MANJULA**

W.P.No.18666 of 2018

K.G.Thennavan Brama Rayan

... Petitioner

Vs.

1.Government of Tamil Nadu
Represented by Principal Secretary to Government
Animal Husbandry and Dairying
Fisheries (FS.2) Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Fisheries,
Chennai-600 006.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the orders of the first respondent (i) G.O.(2D) No.21 Animal Husbandry, Dairying and Fisheries (FS.2) Department, dated 25.02.2016 (ii) G.O.(D) No.338 Animal Husbandry, Dairying and Fisheries (FS.2) Department, dated 13.10.2016 (iii) Government Letter No.17641/FS-2/2016-4 dated 02.06.2017 and (iv) G.O.(2D) No.37 Animal Husbandry, Dairying and Fisheries (FS.2) Department, dated 03.10.2017 to quash the above said proceedings (i), (ii) and (iv) to the limited extent of non-inclusion of petitioner's name in the respective panels and (iii) its entirety and to issue



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consequential directions, directing the first respondent to include the name of the petitioner in the appropriate place in the panel for promotion as Assistant Director of Fisheries for the year 2014-15 and to promote the petitioner to the said post with retrospective effect from the date of promotion of his immediate junior therein, and grant him all consequential benefits including revised increment and pensionary benefits.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.T.Chezhan
Additional Government Pleader

ORDER

The Writ Petition has been filed to call for the records relating to the orders of the first respondent (i) G.O.(2D) No.21 Animal Husbandry, Dairying and Fisheries (FS.2) Department, dated 25.02.2016 (ii) G.O.(D) No.338 Animal Husbandry, Dairying and Fisheries (FS.2) Department, dated 13.10.2016 (iii) Government Letter No.17641/FS-2/2016-4 dated 02.06.2017 and (iv) G.O.(2D) No.37 Animal Husbandry, Dairying and Fisheries (FS.2) Department, dated 03.10.2017 to quash the above said proceedings and to direct the first respondent to include the name of the petitioner in the appropriate place in the panel for promotion as Assistant Director of Fisheries for the year 2014-15 and to promote him with retrospective effect from the date of promotion of his immediate junior therein, and grant him all

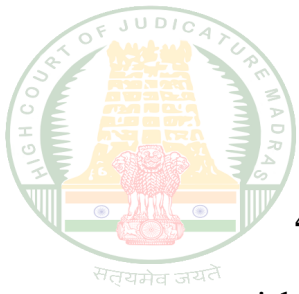


consequential benefits including revised increment and pensionary benefits.

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2. The petitioner, who was working as an Inspector in the second respondent's Fisheries Department, was subjected to disciplinary proceedings in 2009. Consequently, the petitioner was awarded the punishment of censure on 06.07.2015 by the second respondent. The petitioner's name has not been included for promotion to the post of Assistant Director of Fisheries for the year 2014-15, by citing the reasons of pending charges. Furthermore, the temporary panel approved on 13.10.2016 for the next panel year was also issued without including the name of the petitioner.

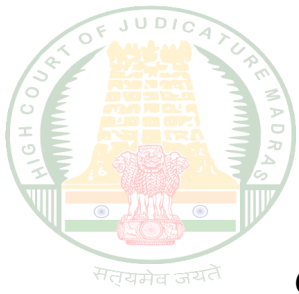
3. The petitioner's name was recommended for inclusion in the temporary promotion panel for 2017 and 2018 through G.O.(2D) No.37 Animal Husbandry, Dairying and Fisheries (FS.2) Department, dated 03.10.2017. The claim of the petitioner is that due to punishment of censure imposed on him on 06.07.2015, he has been denied promotion in successive panels.



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4. As per Schedule XI Para II (1) of Part A under Schedule XI, any punishment of censure imposed on a member of service within a period of five years prior to the crucial date and the punishment of censure imposed within a period of one year from the crucial date, shall be held against the member of service and their name shall not be considered for inclusion in the approved list. However, as per Sub-clause 14, even if a punishment of censure is imposed within one year preceding the crucial date, it shall not be held against the member of service, in cases where the delinquency in respect of which the punishment was imposed and occurred five years prior to the crucial date.

5. In the instant case, the crucial date for each year's promotion panel was August 1st every year. For the 2014 – 15 year promotion panel, the crucial date would be 01.08.2015. Even though the punishment of censure was imposed on 06.07.2015, that would normally remain in effect until 05.07.2016. The alleged lapse for which the petitioner have been imposed the punishment of censure occurred in 2005. This occurrence year falls well beyond the period of five-year preceding the crucial date for promotion panel i.e., 01.08.2015 for the year 2014-15 promotion panel.



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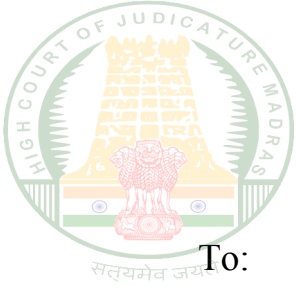
6. The other charge against the petitioner, which led to disciplinary proceedings under 17(b) was subsequently dropped. Therefore, the only punishment is censure which was imposed on 06.07.2015 for the lapse said to have been occurred in the year 2005. Since Sub-rule 14 is applicable to the case of the petitioner, it is appropriate for the respondent to consider the petitioner's request for retrospective promotion by including him in the 2014-15 promotion panels, provided he is otherwise found eligible and pass appropriate orders accordingly.

7. In view of the same, the Writ Petition is disposed of and the 1st respondent is directed to include the petitioner in the promotion panel for the year 2014-15, by granting notional retrospective effect to his promotion from the said year when his juniors promotion and grant monetary benefits from the date on which he was actually promoted with all other attendant benefits and pass an order to that effect within a period of four weeks from the date of receipt of a copy of this order. No costs.

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Speaking Order : Yes/No

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To:

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1.The Principal Secretary to Government
Government of Tamil Nadu
Animal Husbandry and Dairying
Fisheries (FS.2) Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Fisheries,
Chennai-600 006.

R.N.MANJULA,J.

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