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W.P.No.24616 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.11.2025

Pronounced on: 21.11.2025

CORAM

THE HONOURABLE MR.JUSTICE T. VINOD KUMAR

W.P.No.24616 of 2019

M.Sampoornam

... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep. Principal Secretary to the Government
Revenue Department
Secretariat, Chennai 600 009.

2.The Additional Commissioner and
Commissioner for Revenue Administration
Chepauk, Chennai -5.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,



praying to issue a Writ of Certiorarified Mandamus, calling for the records

on the file of the 1st respondent relating to G.O.(2D).No.355, Revenue (SER-

2(3)) Department dated 10.06.2015 and quash the same to the limited extent

of restricting to notional pay fixation on par with petition's junior and to

consequently grant all consequential and monetary benefits in pursuance of

the fixation of pay at Rs.21,130 in the pay of scale of Rs.15,730+5400 GP

w.e.f 12/03/2010 with interest on delayed payments.

For Petitioner : M/s.R.Nivedha
for Mr.M.Ravi

For Respondents : M/s.V.Yamuna Devi
Special Government Pleader

ORDER

Heard M/s.R.Nivedha, for Mr.M.Ravi, learned counsel for the petitioner
and M/s.V.Yamuna Devi, learned Special Government Pleader for the
respondents and perused the records.



2. Briefly put the case of the petitioner is that she was eligible for promotion as Deputy Collector in the panel year of 2008-09; that her promotion to the post of Deputy Collector was deferred claiming pendency of the disciplinary proceedings; that questioning the said action she had approached this Court by filing Writ Petition in W.P.(MD).No.12725 of 2011; and that the aforesaid Writ Petition was allowed on 22.03.2013 setting aside the proceedings by which the disciplinary action was initiated against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955, (herein after in short Rules).

3. It is further case of the petitioner that pursuant to the order of this Court in W.P.(MD).No.12725 of 2011 the respondent had initiated the disciplinary action under Rule 17(a) of the Rules as permitted by this Court in the aforementioned Writ Petition and the petitioner was visited with the order of punishment of stoppage of increment for two years without cumulative effect; and that the aforesaid order by which punishment was awarded was set



aside vide order dated 17.03.2014 in appeal preferred by the petitioner there against.

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4. The petitioner further contended that but for invocation of disciplinary proceedings under wrong Rule i.e., Rule 17(b) of the Rules, the petitioner would have been eligible for being considered for promotion to the post of the Deputy Collector in the panel of the year 2008-09; and that the respondents in order to deny the promotion to the petitioner had invoked Rule 17(b) of the Rules to defer promotion being granted to the petitioner.

5. It is further case of the petitioner that the order by which the petitioner is visited with punishment being set aside in appeal, though the respondents granted notional promotion from the year in which Junior to petitioner was promoted as Deputy Collector and considered the eligible increments which the petitioner would have got if in service while fixing her pensionary benefits, as the petitioner had retired from service on 31st March, 2013, the petitioner is entitled to be granted monetary benefits during the period when she was denied

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of being granted promotion in the panel year of 2008-09 as the petitioner was always willing to work as Deputy Collector.

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6. Contending as above, the petitioner prays for allowing the Writ Petition directing the respondents to grant monetary benefits for the period when she was denied promotion to the post of Deputy Collector.

7. Counter affidavit on behalf of the respondents is filed.

8. The respondents by the counter affidavit mainly contended that this Court in W.P.(MD).No.12725 of 2011 did not quash the charge memo as issued to the petitioner in its entirety and only held that the same could not have been issued by invoking Rule 17(b) of the Rules and granted liberty to the respondents to continue the proceedings under Rule 17(a) of the Rules.



9. By the counter affidavit respondents further contended that pursuant to the order of this Court in the aforesaid Writ Petition and the liberty granted thereunder, the District Collector, Karur District, vide its proceedings dated 28.03.2013 converted the charges to one under Rule 17(a) of the Rules and ordered for imposing punishment of stoppage of increment for two years without cumulative effect.

10. The respondents contended that since, the petitioner is due for retirement on attaining the age of superannuation on 31.03.2013 she was directed to remit the amount equivalent to the punishment mentioned in the order into the Government account in a single installment, for permitting her to retire from service on the date of attaining the age of superannuation on 31.03.2013; and on the petitioner remitting the said sum, she was allowed to retire on 31.03.2013.

11. The respondents by the counter affidavit further contended that against the order by which the petitioner was visited with punishment of

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stoppage of increment for two years without cumulative effect, she had preferred an appeal to the Commissioner of Revenue Administration Office and in the mean time, the Government by exercising suo-motu revision power under Rule 36 of the Rules, quashed the order passed by the District Collector, Karur District, vide G.O.(2D).No.258, dated 07.03.2014 on the ground that the order is unimplementable and also concluded that the disciplinary proceedings could not be continued further, since the delinquency is time barred.

12. By the Counter affidavit it is further contended that on the Government quashing the punishment order and concluding the disciplinary proceedings cannot be continued further, the respondents issued Government Order vide G.O.(2D).No.265, dated 17.03.2014 and included the name of the petitioner in the list of Deputy Collectors for the panel year 2009-2010 below the name of appearing at Sl.No.93 and above the name appearing at Sl.No.94; that thereafter, the Government vide order in G.O.(2D).No.355 dated 10.06.2015 notionally fixed the pay of the petitioner in the cadre of Deputy Collector on par with her Junior and granted pensionary benefits, as the

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petitioner had retired from service on attaining age of superannuation on

31.03.2013.

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13. The respondents also contended that since, the petitioner did not act/discharge duty as Deputy Collector during her service tenure and was only granted notional promotion for fixation of her pay for grant of retiral/pensionary benefits, the petitioner is not entitled for being granted any monetary benefits attached to the post of Deputy Collector as per proviso (1) to sub-Rule (17) under Rules 27 of Fundamental Rules of Tamil Nadu.

14. It is further contended on behalf of the respondents that since, the petitioner did not function/work in the promoted capacity as Deputy Collector the principle of “No work, No pay” would apply and as such the petitioner is not entitled for being granted any monetary benefit in the higher cadre of Deputy Collector.



15. On behalf of the respondents it is also contended that by the time, the charges against the petitioner were set aside, the petitioner having retired from service, her eligibility to the post of Deputy Collector on promotion was considered notionally and thus, the petitioner is not entitled for grant of monetary benefits, more particularly having accepted the initial punishment of stoppage of increment for two years without cumulative effect by remitting an amount of Rs.26,464/- into the Government account being the amount equivalent to the above mentioned punishment. Contending as above, the learned Special Government Pleader for the respondents seeks for dismissal of the Writ Petition.

16. I have taken note of the respective contentions urged.

17. At the outset it is to be noted that though the petitioner claimed of disciplinary proceedings having been initiated under wrong provision/Rule in order to deprive her of being granted promotion and for the said reason the petitioner having approached this Court by filing a Writ Petition vide



W.P.(MD).No.12725 of 2011, it is to be noted that this Court by its order dated 22.03.2013 while setting aside the disciplinary proceedings initiated under Rule

17(b) of the Rules, however, granted liberty to the respondents to proceed against the petitioner under Rule 17(a) of the Rules. Thus, it cannot be said that this Court having set aside the disciplinary proceedings initiated against the petitioner in its entirety, or that the petitioner not being involved in any delinquency.

18. Further, it is also to be noted that the order of this Court in the aforesaid Writ Petition came to be passed on 22.03.2013, while the petitioner was due for retirement on 31.03.2013 on attaining the age of superannuation. Having regard to the order of this Court, the respondents had initiated the disciplinary action under Rule 17(a) of the Rules on 28.03.2013 and visited the petitioner with an order of punishment of stoppage of increment for two years without cumulative effect.



19. The petitioner on being visited with the order of punishment had acceptance of the punishment awarded to her remitted a sum of Rs.26,464/- into the Government account, pursuant to which she was permitted to retire from service of superannuation on 31st March, 2013. It is only after retiring from service the petitioner filed appeal against the order by which she was visited with the aforementioned punishment and while the appeal was pending consideration, the Government in exercise of suo-motu powers of revision under Rule 36 of the Rules quashed the punishment order passed by the District Collector under G.O.(2D).No.258 dated 07.03.2014. It is only upon the Government quashing the order of punishment passed against the petitioner by issuing the G.O.(2D).No.258, the charges levelled against the petitioner stood extinguished.

20. However, by the time, the aforesaid G.O. came to be issued, the petitioner had retired from service. Since, the petitioner was not in service on the day when the Government took the decision to quash the order of punishment awarded to the petitioner i.e., stoppage of increment for two years



without cumulative effect, the respondents vide G.O.(2D).No.265 dated 17.03.2014 included the name of the petitioner in the list of Deputy Collector for the year 2009-10 and granted notional promotion.

21. The Respondents having granted notional promotion to the petitioner, to the post of Deputy Collector for the year 2009-10 taking note of the fact that the petitioner had retired from service on attaining the age of superannuation on 31.03.2013, had notionally fixed pay of the petitioner in the cadre of Deputy Collector on par with the Junior and granted pensionary benefits by issuing G.O.(2D).No.355 dated 10.06.2015. The petitioner did not raise her little finger when the respondents issued aforementioned two Government Orders granting notional promotion and also notional pay fixation. The petitioner in fact had accepted the pension fixed by the respondents by considering the increments payable as if the petitioner was promoted to the post of Deputy Collector.



22. The petitioner having accepted the notional promotion and pay fixation however, on change of mind after lapse of four years, approached this Court by the present Writ Petition claiming that she is entitled to be granted monetary benefits in the cadre of Deputy collector which promotion was denied to her on the ground of pendency of disciplinary proceedings.

23. It is trite law that while right to be considered for promotion is recognized as Fundamental rights under Articles 14 & 16 (1) of the Constitution of India), the same by itself cannot be held as an absolute right to the promotion itself. Though the petitioner was eligible for being considered for promotion to the post of Deputy Collector in the panel year of 2008-09, the case of the petitioner was not considered on account of pending disciplinary proceeding and was deferred. It is only upon the Government in exercise of suo-motu revision power under Rule 36 of the Rules quashing the order of punishment awarded to the petitioner, she became eligible to be considered for promotion. However, by the said time the petitioner had retired from service. It is for the said reason the petitioner was notionally promoted in the year 13/19



2009-10 to the post of Deputy Collector under G.O.(2D).No.265 dated 17.03.2014 and based on the said notional pay fixation had been done for grant of pensionary benefits.

24. It is equally settled position of law that an employee is not entitled to claim any monetary benefits when he/she is not even born in service and particularly when promotion has been granted on notional basis. Since, in the facts of the present case the petitioner having retired from service on 31.03.2013, during the subsistence of the order of punishment, the petitioner cannot claim that she was willing to work as Deputy Collector but for the denial by the respondents. Thus, the aforesaid submission does not appeal to this Court for being accepted, as it is only on issuance of G.O.(2D).No.258 dated 07.03.2014 the order of punishment as awarded to the petitioner was quashed. Thus, during the currency of the order of punishment, the petitioner cannot claim of her willingness to work as Deputy Collector and being denied the opportunity by the respondents for no fault of her, so as to be eligible for being granted monetary benefits.



25. The Apex Court in the case of ***Government of West Bengal and others Vs. Dr.Amal Satpathi and others***, reported in ***2024 SCC Online SC***

3512 dealing with similar contention in para No.21 observed as under:

“21. While we recognize respondent No.1’s right to be considered for promotion, which is a fundamental right under Articles 14 and 16(1) of the Constitution of India, he does not hold an absolute right to the promotion itself. The legal precedents discussed above establish that promotion only becomes effective upon the assumption of duties on the promotional post and not on the date of occurrence of the vacancy or the date of recommendation. Considering that respondent No.1 superannuated before his promotion was effectuated, he is not entitled to retrospective financial benefits associated to the promotional post of Chief Scientific Officer, as he did not serve in that capacity.”

26. Further, the petitioner having accepted the notional promotion and notional pay fixation granted by the respondents in the year 2014-15 without



raising any demur or protest, cannot now be allowed to claim of she being entitled for monetary benefit for the period when the promotion was denied to her claiming that she was more than willing to work as Deputy Collector and the respondents having denied, her opportunity, after a lapse of six years, after retiring from service. Thus, the claim of the petitioner in the present Writ Petition also suffers from delay and laches.

27. In view of the above, this Court is of the considered view that the present writ petition as filed is devoid of merit and is accordingly, dismissed.

No order as to costs.

21.11.2025

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

1.The Principal Secretary to the Government

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Revenue Department
Secretariat, Chennai 600 009.

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2.The Additional Commissioner and
Commissioner for Revenue Administration
Chepauk, Chennai -5.



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T. VINOD KUMAR, J.

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**Pre-Delivery Order in
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