



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2025

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.34574 of 2019

P.Kaliyaperumal, M/68Y,
Special Grade Assistant,
Nellikuppam Municipality,
Nellikuppam, Cuddalore District. ...

Petitioner

/vs/

1. The Secretary to Government,
Municipal Administration & Water Supply
Fort St. George, Chennai 600 009.

2. The Commissioner of Municipal Administration,
11th FLR, Urban Administrative Building,
75, Santhome High Road,
MRC Nagar,
Raja Annamalai Puram,
Chennai 600 028.

3. The Commissioner,
Tribunal for Disciplinary Proceedings,
312, 13th Cross Street, Phase II
Sathuvacherry, Vellore -9. ...

Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorari Mandamus to call for the connected records leading to the issue of the impugned order dated 13.04.2015 passed by the 1st respondent in G.O.(D) No.246 and the order of the 2nd respondent in Na.Ka.No.28222/2016K2



dated 26.02.2018 and quash the same and consequently direct the respondent to grant promotion to the petitioner along with all the consequential benefits.

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For Petitioner : Mr.D.Muthukumar for
M/S.J.Hudson Samuel and Partners

For Respondents : Mr.T.Chezhian,
Additional Government Pleader.

ORDER

The Writ Petition has been filed to call for the records relating to the impugned order dated 13.04.2015 passed by the 1st respondent in G.O.(D) No.246 and the order of the 2nd respondent in [Na.Ka.No.28222/2016K2](#) dated 26.02.2018 and quash the same and consequently direct the respondents to grant promotion to the petitioner along with all consequential benefits.

2. Heard Mr.D.Muthukumar, learned counsel for the petitioner and Mr. T.Chezhian, learned Additional Government Pleader for the respondents and perused the material available on record.

3. The petitioner, who has been working in the municipal service, was given a charge sheet on 09.01.2006 on the allegation that he demanded



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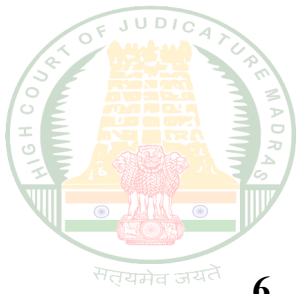
gratification for assessing lower property tax and levying the tax from 01.04.2003 instead of September 1997 in respect of one property belonging to a private individual. On 06.05.2008, the 2nd respondent imposed a penalty of reducing his pay to the minimum in the time scale of pay for the post of assistant, vide his order dated 06.05.2008. The petitioner has challenged the said punishment order by way of preferring an appeal; however, his appeal was rejected. Thereafter, the petitioner filed a writ petition in [W.P.No.4880/2009](#) and the said writ petition was allowed on the finding that the appellate authority and the disciplinary authority cannot be one and the same, and thereby set aside the order of the appellate authority dated 06.03.2009 and remanded the appeal for fresh consideration by some other competent officer. The said writ appeal filed by the respondent was also dismissed on 09.06.2011. Thereafter, the 1st respondent passed an order on 13.04.2015 by modifying the penalty from reduction of scale of pay to cut in pension to the extent of Rs.250 for a period of six months. The petitioner gave representation to restore his pay and to give him a promotion. The 2nd respondent rejected the said representation, stating that the petitioner was not exonerated from the charges and he had got the order only to modify the punishment. The said order of the 2nd respondent is dated 26.02.2018.



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4. The learned counsel for the petitioner submitted that the petitioner's punishment was reduced to a minor penalty that cannot be a bar for considering him for the promotion. The petitioner was eligible in the year 2007 and he was not promoted due to the pendency of the disciplinary proceedings. In view of the modified penalty, the petitioner should be promoted on par with his juniors. The alleged financial loss is said to have been caused by the alleged action on the part of the petitioner, but it was not a loss because the tax has been collected from the individual. Having collected the dues, the 1st respondent cannot once again impose a cut in pension, and that would amount to punishing the petitioner without any valid reasons.

5. The learned Additional Government Pleader for the respondents submitted that the petitioner retired from service on 30.6.2009, and he filed this writ petition seeking promotion 10 years subsequent to his retirement, which itself is not maintainable. He further submitted that even the petitioner was not considered for promotion because of the disciplinary actions pending against him. The learned Additional Government Pleader for the respondents further submitted that the earlier punishment of reduction of his scale of pay had been implemented in the year 2015.



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6. The learned counsel for the petitioner further submitted that the punishment has been imposed only upon the pension of the petitioner and that too for a nominal and solitary reason, and hence it is a minor penalty. It is further submitted that the reduction of Rs. 250 from the pension cannot be considered a major punishment, and a minor punishment cannot be a bar for promotion.

7. The petitioner claimed that his juniors had been promoted while disciplinary proceedings were pending against him on 26.02.2007, on which date, in view of the revised punishment, there was no punishment pending against the petitioner. The respondent can relook into the matter and pass appropriate orders on merit.

8. In view of the above-stated reasons, this writ petition is partly allowed. The impugned order dated 26.02.2018 is set aside, and the 2nd respondent is directed to reconsider the matter on its merits and in the right of the obligation now made and pass fresh orders within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.



14.03.2025

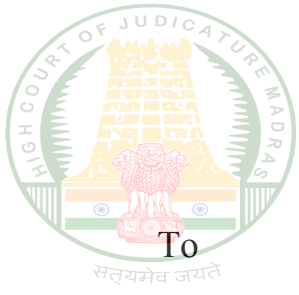
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Internet : Yes/No

Speaking : Non Speaking order

Neutral : Yes /No

jrs



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