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W.P. No.35533 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2025

CORAM :

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

W.P.No.35533 of 2019
and
W.M.P.No.36376 of 2019

G.Gulam Jeelani Papa

... Petitioner

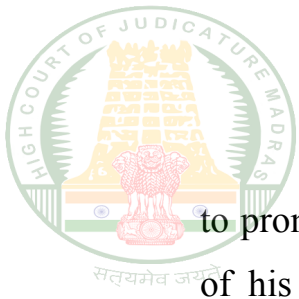
Vs.

1.Government of Tamil Nadu
Represented by Principal Secretary to Government
Public (Special A) Department,
Secretariat, Chennai-600 009.

2.The Principal Secretary and
Commissioner of Revenue Administration,
Disaster Management and Mitigation Department,
Chepauk, Chennai-5.

... 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 of the 1st respondent relating to the orders in Government Letter No.1480/A4/2018, Public (Special A) Department dated 25.07.2019 to quash the same and to issue consequential directions directing the respondents to empanel the petitioner's name in the panel or promotion to the post of District Revenue Officer for the year 2018 approved in G.O.Ms.No.488 (Public Special A) Department dated 25.07.2019, in the appropriate place therein and



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to promote him as such, with retrospective effect from the date of promotion of his immediate junior, with consequential benefits without prejudice his claim for empanelment in the panel for the year 2018.

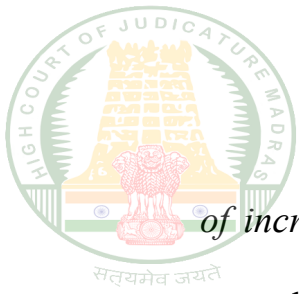
For Petitioner : Mr.M.Ravi

For Respondents : Mr.T.Chezhan
Additional Government Pleader

ORDER

The Writ Petition has been filed to call for the records of the 1st respondent relating to the orders in Government Letter No.1480/A4/2018, Public (Special A) Department dated 25.07.2019 to quash the same and to issue consequential directions.

2. The petitioner, who was working in the Revenue Department as Deputy Collector, was eligible for empanelment for promotion to the post of District Revenue Officer for the year 2018. However, in view of the memo dated 21.12.2011, issued by the 2nd respondent in respect of certain alleged lapses relating to 2008, disciplinary proceedings were initiated against the petitioner under 17(a) of the TNCS (D&A) Rules. These proceedings were culminated in an order dated 07.01.2016, imposing a punishment of *stoppage*



of increment for one year without cumulative effect. The petitioner's appeal was dismissed on 02.08.2017. The petitioner has filed a writ petition challenging the said order in W.P.No.2465 of 2018 and the same was dismissed on 22.03.2024.

3. Meanwhile, the panel for the 2017 promotion to the post of District Revenue Officer was issued, but the petitioner's name was not included. The next year's panel 2018 was also approved through Government Order in G.O.Ms.No.488, Public (Special A) Department dated 25.07.2019 which similarly excluded the petitioner's name. The petitioner was given to understand that the penalty of stoppage of increment took effect on 01.07.2017 and the said penalty was in currency. Consequently, the petitioner's name was deferred from the panel and the order in this regard dated 25.07.2019 was served on the petitioner.

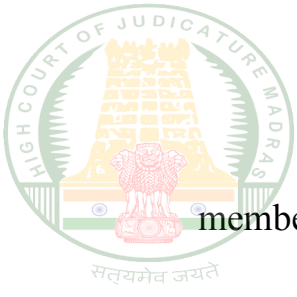
4. The petitioner submitted a representation stating that the order of the panel took effect from the date of service and not from the time when the penalty was given effect. In that case, the currency of punishment would have ended as early as 21.08.2017.



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5. The learned counsel appearing for the petitioner submitted that, as per the Rule 17(b)(2) of Schedule A of Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the penalty would take effect only from the date of the penalty order. In the case of the petitioner, the penalty was imposed on 07.01.2016 and the order was served on the petitioner on 22.08.2016. Therefore, the currency of punishment would be over on 21.08.2017. The learned counsel further submitted that the five year check period had already lapsed, given that the lapses related to 2018. Consequently, the petitioner ought to have been included in the promotion panel for atleast the year 2018, without prejudice his claim for the panel for the 2017.

6. The learned Additional Government Pleader submitted that, as per the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 in Schedule XI Part A-II-Clause II “Any punishment (Other than Censure) imposed on a member of service within a period of five years prior to the crucial date i.e., on 01.04.2018 and in case of punishment of “Censure” imposed within a period of one year prior to the crucial date, the name of the



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member will not be included in the promotion panel. The petitioner's claim was not included only in the above provision.

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8. In response, the petitioner has filed a writ petition, arguing that as per the Rule 17 under Para II of Part A Schedule IX under Section 7(1) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016, any punishment imposed on a member of service will take effect from the date on which the punishment is served on a member's concern and his name shall not be considered for promotion until the period of punishment is over.

9. According to the respondent, the punishment has been given effect only on 01.07.2017, as the crucial date for the 2017 panel was 01.04.2017 and the crucial date for the 2018 promotion fell on 01.04.2018. Therefore, the petitioner's name could not be included in the panels for 2017 and 2018 in view of Rule 17 under Para II of Part A Schedule IX under Section 7(1) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

10. Earlier, a writ petition was filed in W.P.No2465 of 2018 in which an order has been passed on 22.03.2024, wherein the Court has observed as



“9.From a perusal of the records, it is seen that the petitioner had engaged a private individual namely A.Ramakrishnan, who was a retired Government Servant to do his official work and paid Rs.100/- per day remuneration from his pocket. The deposition of the petitioner as well as the said Ramakrishnan was also taken by the officials of Department of Vigilance and Anti Corruption. It is further seen that the first charge framed against the petitioner was dropped as it was not substantiated. The second charge, which pertains to the lapses committed by the petitioner in maintaining the accounts books, was found to be proved and only on finding that the charge was proved, the petitioner was awarded with punishment of stoppage of increment for a period of one year without cumulative effect with the provision to appeal against the punishment imposed to the authority concerned. Consequent thereupon, the petitioner had approached this Court by way of a writ petition in W.P.No.36970 of 2016, which was dismissed by order dated 05.12.2016 directing the petitioner to file an appeal before the Government. Thereafter, the petitioner had filed an appeal before



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the Government

challenging the punishment imposed. However, the same was rejected by order dated 02.08.2017 stating that whenever an officer is undergoing punishment and there is currency of punishment on the crucial date when the promotion panel is drawn, the name of such officer should be passed over at the time of first consideration irrespective of occurrence of irregularity. Hence, the petitioner was not considered for promotion to the post of District Revenue Officer for the years 2016, 2017 and 2018 as the punishment was under currency.

10.Further, it is seen that the disciplinary action initiated was based on the recommendation of appropriate investigating authority and enquiry was conducted with available records and the request for promotion to DRO with retrospective effect on par with immediate junior with consequential benefits were not given as none of the juniors had been promoted as DRO. Further, the name of the petitioner was included in the panel for promotion to the post of DRO in the year 2019, was promoted as DRO and was permitted to retire from service voluntarily with effect from 30.11.2023



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afternoon vide G.O.(D) No.404, Public

(Special A) Department, dated 29.11.2023.

Therefore, the petitioner's claim that he should have been retrospectively promoted cannot be considered.

11. Besides, out of three charges framed against the petitioner, two charges were found to be proved for which only a minor punishment of stoppage of increment for a period of one year without cumulative effect was imposed. The petitioner's case was also leniently considered by the authorities concerned and he was empanelled for promotion to the post of DRO in the year 2019 subject to the result of the W.P.(MD).No.8706 of 2019. Subsequently, as already stated, the petitioner was also promoted as DRO, (Land and Estates), Greater Chennai Corporation and he was permitted to retire from service voluntarily with effect from 30.11.2023 afternoon by G.O.(D).No.404, Public (Special-A) Department, dated 29.11.2023. Admittedly, when the petitioner had accepted the promotion as DRO and worked in that capacity as such till he gave Voluntarily Retired from Service, the petitioner is not justified in claiming



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retrospective promotion. Therefore, this Court is of the view that no further adjudication is necessary in the matter and the order under challenge does not call for any interference. The writ petition is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.”

11. By citing the above order, the learned Additional Government Pleader submitted that the issue had already been dealt in the above writ petition, wherein the petitioner's promotion was approved by including him in the 2019 panel.

12. However, the learned counsel for the petitioner submitted that the 2018 panel has been issued only on 25.07.2019 before which date the petitioner had already filed writ petition No.2465 of 2018 and hence the petitioner has filed another writ petition to seek the relief now sought by him separately.

13. Even though the petitioner canvassed for his promotion to the 2018 panel on the strength of Rule 13 and 17 of the Tamil Nadu Servants (Conditions of Service) Act, 2016. as referred above, he failed to seek the



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same relief before the other coordinate bench that disposed of his writ petition in W.P.No.2465 Of 2018 on 22.03.2024. In fact in that writ petition, the petitioner had sought relief to be empaneled in the ensuing promotion panel and to be promoted with retrospective effect from the date of promotion of his immediate junior.

14. The Court has answered the above issue with the observation that the petitioner was not considered for promotion for the years 2016, 2017 and 2018, as the punishment was under currency. The petitioner subsequently filed a Writ Appeal, challenging the findings of the above order as his claim for empanelment in the previous years and seeking promotion with retrospective effect. The writ petitioner has also been filed for the same relief and hence not maintainable.

15. With the above observation, this Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

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Speaking Order : Yes/No

To:

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- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
Public (Special A) Department,
Secretariat, Chennai-600 009.
- 2.The Principal Secretary and
Commissioner of Revenue Administration,
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Chepauk, Chennai-5.

R.N.MANJULA,J.

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