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THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.03.2025

PRONOUNCED ON : 01.04.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.P.No.36285 of 2024
and W.M.P.No.39162 of 2024**

Sridharan,
S/o.Selvaraj,
Head Clerk,
Principal Sub-Court,
Vridhachalam,
Cuddalore District.

...

Petitioner

versus

1.The Principal District and Sessions Judge
/ Principal District Judge,
Cuddalore.

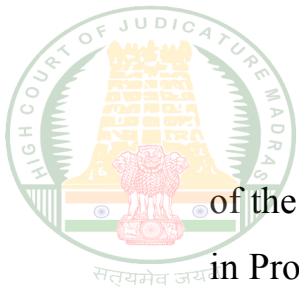
2.The Special Sub-Judge,
Special Sub-Court for MACTOP Cases,
Cuddalore.

3.The Registrar General,
High Court, Madras.

...

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India
praying to issue a writ of Certiorarified Mandamus, calling for the records



of the first respondent in connection with the impugned order passed by him in Proc.No.205/2018 dated 02.02.2021 and further order passed by the same respondent in AR No.2233/2024 dated 03.02.2024; official memorandum No.1847/A/2024 dated 07.03.2024 and quash the same and direct the third respondent to consider the statutory appeal of the petitioner dated 05.02.2024 and dispose the same.

For Petitioner : Mr.K.Venkataramani
Senior Counsel
for Mr.M. Muthappan

For Respondents : Mr.E.Chandrasekaran
Standing Counsel

ORDER

(Order of the Court was made by **G.ARUL MURUGAN, J.**)

This Writ Petition is filed challenging the order of the first respondent dated 02.02.2021, imposing a punishment of censure and the order of the third respondent dated 07.03.2024, refusing to entertain the appeal as it was beyond the period of limitation.

2. The petitioner, who was originally appointed as Senior Bailiff on compassionate grounds on 03.10.1988 in the District Munsif Court, Thirukoilur, was promoted to the posts of Junior Assistant and Head Clerk,



was also promoted as Grade-II Bench Clerk on 28.11.2016 and thereafter was promoted as Head Clerk of Sub-Court on 02.05.2022.

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3. While he was serving as Head Clerk, the learned Judicial Magistrate No.II, Chidambaram, issued a memo on 24.01.2017 for which the petitioner did not respond and thereafter, a charge memo came to be issued on 24.03.2017 framing four charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 [hereinafter referred to as “the Rules”]. Both the charges 1 and 2 pertained to not properly responding to the memo and only the charges 3 and 4 were in respect of the missing of case records, case properties and falsely submitting a rectification report.

4. The petitioner submitted his reply and not satisfied with the explanation, an enquiry officer was appointed on 17.07.2018. After enquiry, the enquiry officer had submitted the report on 21.12.2018 holding that the charges 1 and 2 are proved and charges 3 and 4 are not proved. The disciplinary authority concurred with the findings of the enquiry officer and by order dated 02.02.2021, imposed a punishment of censure.



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5. After a period of nearly 2 years and 11 months, the petitioner had preferred an appeal to the appellate authority. Since the same was not preferred within the period of limitation as contemplated under Rule 27(3) of the Rules, by order dated 07.03.2024, the appeal was not entertained. Assailing both the orders imposing punishment of censure and the order refusing to entertain the appeal, the petitioner has preferred the above writ petition.

6. Mr.K.Venkataramani, learned Senior Counsel, instructed by Mr.M.Muthappan, appearing for the petitioner contended that, when the enquiry officer held that the charges 3 and 4 were not proved, only for the charges 1 and 2 which relates to allegation that he did not properly respond to the memo, a punishment of censure came to be imposed.

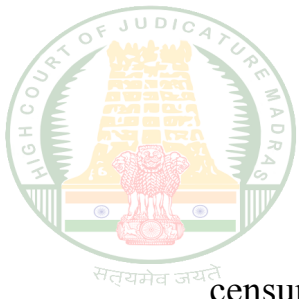
7. It is his further contention that even though only a minor punishment is imposed, still the petitioner was made to suffer denial of promotion for nearly 4 years from the date of issuance of the charge memo and the date of imposing the punishment. For no reasons, they took nearly 1½ years to appoint an enquiry officer and further when the enquiry officer



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submitted his report on 21.12.2018, the punishment of censure came to be imposed nearly after 2 years and 2 months from the submission of the report, which delay is unexplained and indirectly resulted in a further punishment to the petitioner by not getting the promotion in time. He further contended that when only the promotion could be skipped for one year due to the punishment of censure imposed, but because of the delay, the petitioner was made to suffer for 4 years.

8. Contending contra, Mr.E.Chandrasekaran, learned Standing Counsel appearing for the respondents submitted that, on receipt of the enquiry officer's report, the disciplinary authority concurred with the findings, had imposed punishment. However, there had been some delay, which was due to the covid-19 pandemic. He further submitted that the punishment will take effect only from the date of the order imposing punishment. As the punishment of censure has been imposed, the petitioner could not be included in the panel for a period of one year and thereafter the promotion was given to the petitioner on 02.05.2022.

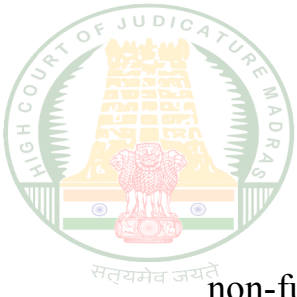


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9. He further contended that knowing well the punishment of censure has been imposed, the petitioner did not agitate the matter and allowed the punishment to become final and had belatedly, after nearly 3 years, had preferred the appeal, which has not been entertained as time barred. As such, the petitioner himself was the reason for the delay and he cannot impute any allegations against the respondents that because of the delay he has suffered chances of promotion.

10. Heard the rival submissions and perused the materials placed on record.

11. The petitioner, who was initially appointed as Senior Bailiff on 03.10.1988, had been given subsequent promotions and has also been promoted to the post of Head Clerk as on 02.05.2022 and was posted at Special Sub Court, MCOP Cases, Cuddalore. On allegations that the petitioner did not respond to the memo issued by the learned Judicial Magistrate No.II, Chidambaram, on 24.01.2017 and 17.02.2017 and for other allegations, charge memo came to be issued on 24.03.2017 under Rule 17(b) of the Rules, framing four charges.



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12. As referred earlier, the charges 1 and 2 are only in respect of non-furnishing of the proper reply for the memo and the charges 3 and 4 pertain to missing of case papers, case properties and submitting a false rectification report. The petitioner had submitted his reply, but however, the respondents took nearly 1½ years to appoint an enquiry officer and finally an enquiry officer was appointed on 17.07.2018.

13. After concluding the enquiry, the enquiry officer had submitted the report on 21.12.2018, holding that only the charges 1 and 2 are proved and the charges 3 and 4 are not proved. When the charges 3 and 4 which were serious were held not proved, only the lapses in not properly responding to the memo were held proved. Even though the enquiry report was submitted on 21.12.2018, the same was kept pending and the disciplinary authority, by concurring with the findings of the enquiry officer, came to the conclusion that only a minor punishment under Rule 17(a) of the Rules could be imposed for the proven charges and by order dated 02.02.2021, had imposed a punishment of censure.

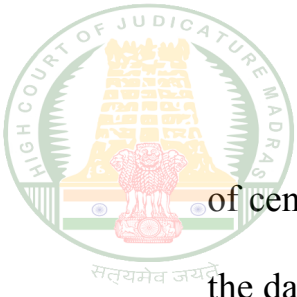


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14. There is absolutely no explanation on the part of the respondents as to why they had taken such a long time for appointment of the enquiry officer and also further taken a time of nearly 2 years and 2 months for passing the final order after receiving the enquiry report. The only reason given, namely, covid-19 pandemic is factually incorrect, as the pandemic was only from March, 2020 and in fact, the order imposing the punishment has been passed in the year 2021.

15. As rightly contended by the learned Senior Counsel for the petitioner, though a punishment of censure, which is a minor punishment, has been imposed on the petitioner, still due to the enormous delay caused on the part of the respondents, the petitioner was denied promotion.

16. Schedule-XI, (II) Clause 11 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, stipulates that, when a punishment of censure has been imposed within one year prior to the crucial date, it shall be held against the member of service and his name shall not be considered for inclusion in the approved list. Therefore, for the punishment



of censure, the promotion of the petitioner will be deferred by one year from the date of punishment of censure.

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17. Now, due to the enormous delay caused, instead of skipping of promotion for a period of one year, the petitioner was made to suffer for a longer period. Equally, the petitioner is also responsible for delay due to the fact that when he had a remedy of appeal provided under the Rules, the petitioner did not choose to prefer an appeal in time. However belatedly, after a period of 2 years and 11 months, preferred the appeal beyond the period of limitation as contemplated under Rule 27(3) of the Rules and therefore, the appeal was not entertained since barred by limitation.

18. In view of the proven charges where the disciplinary authority had imposed a punishment of censure, we do not feel it appropriate to interfere with the punishment imposed, but we find force in the submissions of the learned Senior Counsel for the petitioner that because of the delay the petitioner was made to suffer for getting promotion for a longer period than that is contemplated under the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.



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19. Admittedly there is huge delay of nearly 1½ years in appointing an enquiry officer and further, when the enquiry report was submitted on 21.12.2018, the enquiry report was simply kept pending for nearly 2 years and 11 months for imposing the punishment of censure, for which no proper explanation is afforded on the part of the respondents. In such circumstances, we only deem it appropriate that, considering the huge delay, the date of submission of the enquiry report as on 21.12.2018 could be taken as the date of punishment of censure imposed and if one year is calculated from 21.12.2018, the check period will end on 21.12.2019.

20. It is submitted that the petitioner had already been promoted as Head Clerk in the Sub Court as on 02.05.2022. As such, the promotional benefits as Head Clerk by including him in the panel will be given effect to by considering the completion of one year check period, as on 21.12.2019 or on the date on which the petitioner would have otherwise been eligible to.



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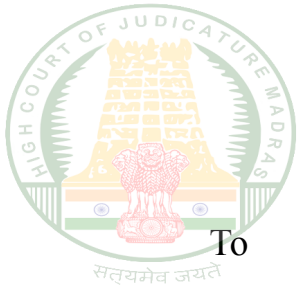
21. We make it clear that in view of the delay caused on the part of the petitioner in filing appeal, even if any such promotion is effected from a prior date as directed above, it will only be granted notionally but he will be entitled to the monetary benefits only from the date of actual promotion, i.e., on 02.05.2022. We add a caveat that since this order is passed in view of the peculiar facts and circumstances of the present case, it will not be cited as a precedent in any other cases.

22. In view of the above observations and directions, this Writ Petition stands *disposed of*. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.M., J.) (G.A.M., J.)
01.04.2025

Speaking order
Index : Yes
Neutral Citation : Yes

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To

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W.P.No.36285 of 2024



R.SUBRAMANIAN, J.
and
G.ARUL MURUGAN, J.

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Pre-Delivery Order made in
W.P.No.36285 of 2024
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01.04.2025