



W.A(MD) No.613 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 16.07.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A(MD) No.613 of 2025
and
C.M.P.(MD)No.4545 of 2025

1.The Transport Commissioner,
Chepauk,
Chennai-5.

2.The Joint Transport Commissioner (Admin),
Chepauk,
Chennai-5.

... Petitioners / Appellants

Vs.

I.Mohamed Rafeek

... Respondent / Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to allow the writ appeal and set aside the order dated 30.07.2024 made in W.P.(MD)No.6061 of 2024.



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For Appellants : Mr.Veerakathiravan
Additional Advocate General
assisted by Mr.A.Kannan
Additional Government Pleader

For Respondent : Mr.V.Karthikraja
for M/s.Ajmal Associates

JUDGMENT

(Judgment of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. Shri.I.Mohamed Rafeek joined the Transport Department as Assistant on 19.12.2012. The post of superintendent is the promotional post for the post of assistant. In normal circumstances, Mohamed Rafeek ought to have been included in the promotion panel for the year 2018-2019. The crucial date is 15.03.2018. It is true that on the crucial date, the service record of Mohamed Rafeek was clean. There was no cloud on him. Shri.Mohamed Rafeek was posted at Palanichettipatty Check post during December 2017. On 31.12.2017, V & AC officials held a surprise check. A sum of Rs.34,570/- was seized from the office



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premises. In this regard, proceedings were initiated by the Tribunal for Disciplinary Proceedings against all the officials involved. Mohamed Rafeek figured as A2. On 05.10.2020, charges were framed against him and enquiry is still pending.

3. Now, the question that arises for consideration is whether Mohamed Rafeek could have been promoted to the post of Superintendent based on the panel prepared for the year 2018-2019. Since his name was excluded, Mohamed Rafeek filed W.P.(MD)No.6061 of 2024. The learned single Judge allowed the writ petition vide order dated 30.07.2022 and directed inclusion of the writ petitioner's name in the promotional panel for the year 2018-2019 for the post of Superintendent. Aggrieved by the same, the department has filed this writ appeal.

4. If Thiru.Mohamed Rafeek had come to this Court before the disciplinary proceedings were taken up for enquiry, his name could have been included in the panel and probably, some benefit could have been granted to him. In fact, not only enquiry had been initiated against the



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writ petitioner but charges were also specifically framed by the Tribunal for Disciplinary Proceedings. It is true that on the crucial date, there was no disciplinary proceeding pending against the writ petitioner. But that is beside the point.

5. The learned counsel appearing for the writ petitioner relies on the order dated 11.03.2025 in W.A.(MD)No.527 of 2025 and the order dated 24.10.2024 in W.A.(MD)No.2158 of 2024 passed by the Coordinate Bench. All these decisions had been fully considered by us in W.A.(MD)No.1822 of 2023, dated 11.07.2025 (R.Santhi Vs. District Collector, Ramanathapuram). We had taken a view that the subsequent developments cannot be ignored. In other words, if before conferment of the actual promotion to the employee, charge memo had been issued against him, then, he cannot insist on promotion. In this case, even before the preparation of the panel, charges had been framed by the Tribunal for Disciplinary Proceedings.

6. In this view of the matter, the order passed by the learned single Judge is set aside. We make it clear that in the event of the writ



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petitioner being exonerated by the Tribunal for Disciplinary Proceedings, he will be entitled to be included in the panel for the year 2018-2019 and also conferred with all the consequential monetary benefits. We direct the Tribunal for Disciplinary Proceedings to dispose of TDP No.4 of 2018 on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order. We make it clear that a request for extension of time will not be entertained.

7. The Writ Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (K.R.S., J.)
16.07.2025

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