



W.A(MD)No.2533 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.02.2025

CORAM :

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.A(MD)No.2533 of 2024
and
C.M.P(MD)No.17801 of 2024**

1. The Additional Chief Secretary/
Commissioner of Revenue Administration,
Secretariat, Fort St.George,
Chennai.

2. The District Collector,
Thoothukudi District,
Thoothukudi.

... Appellants

vs.

M.Diravium

... Respondent

PRAYER : Writ Appeal filed under Clause 15 of the Letters
Patent, against the order dated 04.09.2023 made in W.P(MD)No.18503 of
2023.

For Appellants : Ms.D.Farjana Ghoushia
Special Government Pleader
For Respondent : Mr.H.Mohammed Imran for
M/s.Ajmal Associates



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JUDGMENT

(Judgment of the Court was made by **J.NISHA BANU, J.**)

This writ appeal is filed against the order dated 04.09.2023 made in W.P(MD)No.18503 of 2023.

2. The facts leading to the filing of the writ appeal are as follows:

The respondent / writ petitioner was initially appointed as an Assistant on 24.12.2009 at Ettayapuram, Thoothukudi District, by direct recruitment and after various promotions, presently he is working in the cadre of Taluk Supply Officer, Kayathar, Thoothukudi District. His next avenue of promotion is to the post of Tahsildar, for which, a promotion panel was prepared, wherein, his name was also included and the same was approved by the 2nd appellant in the year 2022. The crucial date for the respondent's promotion fell on 01.07.2022. While so, the 2nd appellant vide proceedings dated 15.03.2023 published the approved list, in which, the respondent was placed at Serial No.8. However, for want of vacancies, the respondent was not promoted. Thereafter, a charge memo dated 21.06.2023 came to be issued against the



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respondent, on the allegation that the respondent mutated the patta of few lands standing in the name of the Government in favour of third parties. Despite inclusion of his name in the promotion panel for the year 2022, since the respondent was not promoted, he made a representation on 28.06.2023 to the appellants and finding inaction, he filed the writ petition.

3. Though the appellants filed a counter affidavit in the writ petition, contending that due to the pendency of charges framed under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, the respondent was not promoted and also relied upon the Government Letters to the effect that charges framed under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 and any of the punishments awarded after the crucial date, but before the actual promotion, shall be held against the officer, the Writ Court rejected those contentions and has held as follows:

"8.No doubt, as on the crucial date ie., on 01.07.2022 or on the date of the promotion panel, dated 15.03.2023, the petitioner was not issued with any charge-memo. Schedule XI Part A(II)(8) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016



mandates that the pendency of charges framed under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, against a member of service, shall be a bar for inclusion of his name in the approved list. However, no charges were pending against the petitioner as on the crucial date and on the date of finalizing the promotion panel for the year 2022. Moreover, the argument made by the learned Additional Government Pleader appearing for the respondents that on the basis of a Government Letter, dated 27.08.2003, wherein it was clarified that charges framed under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 after the crucial date but before the actual promotion shall also be held against the officer is not sustainable for the simple reason that an Executive Letter, cannot supplant the mandates of the statute. When the statute is clear that there is no bar for a candidate to be considered for promotion if no charges were pending either on the crucial date or on the date of promotion panel cannot be superseded by the letter of the authorities.

.....

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12.On reading the aforesaid Judgments as cited supra, this Court is of the view that as already decided, when there was no currency of punishment on the crucial date or when there were no pending charges either on the date of the crucial date or on the date of promotion panel, the subsequent charge-memo cannot be a bar for promotion.



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13. Under such facts and circumstances of the case and in view of the decisions cited supra, the following directions are issued in this Writ Petition:

(i) The name of the petitioner shall be included in the panel based on the crucial date 01.07.2022, fit for promotion to the post of Tahsildar and the said panel for the year 2022 shall be acted upon.

(ii) If vacancy is not available as of now, the petitioner should be accommodated in the next arising vacancy, giving effect to the promotion panel for the year 2022.

(iii) If the name of the petitioner is considered as directed and any promotion is given to him, that will be subject to the result of the departmental proceedings initiated against the petitioner vide charge memo, dated 21.06.2023.'

4. As rightly held by the Writ Court, when there was no currency of punishment on the crucial date or when there were no pending charges either on the crucial date or on the date of promotion panel, the subsequent charge-memo cannot be a bar for promotion. In this case, either on the crucial date i.e., on 01.07.2022 or on the date of the promotion panel, dated 15.03.2023, the respondent was not issued with any charge-memo. Therefore, there was no impediment to promote the respondent and the Writ Court has rightly allowed the writ



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petition. Hence, we are not inclined to interfere with the order passed by the Writ Court.

5. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B, J.] [S.S.Y, J.]
13.02.2025

Index : Yes / No
Neutral Citation : Yes / No
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