



WA(MD). No.1117 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 25/04/2025

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

AND

THE HONOURABLE Mrs. JUSTICE S.SRIMATHY

**WA(MD). No.1117 of 2025
and CMP(MD) No.7037 of 2025**

1.The State of Tamil Nadu
Represented by its Principal Secretary to Government
Environment, Climate change and Forest Department
Secretariat, Chennai.

2.The Principal Chief Conservator of Forests
(Head of Forest Force)
Guindy, Chennai 32

3.The Principal Chief Conservator of Forests,
(Forest Administration)
Guindy, Chennai 32

... Appellants

v.

S.Logasundaranathan

... Respondent

PRAYER :- Writ Appeal filed under Clause 15 of Letters patent against
the order of this Court dated 29.01.2025 in WP(MD). No.29190 of 2024.

For Appellants : Mrs.D.Farjana Ghoushia
Special Government Pleader
For Respondent : Mr.V.Panneerselvam



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JUDGMENT

(Judgment of the Court was delivered by S.SRIMATHY,J.)

The writ appeal is directed against the order of the writ Court dated 29.01.2025 in WP(MD) No.29190/2024.

2. The respondents in the writ petition are the appellants herein.

3. The writ petition has been filed by the writ petitioner/respondent challenging the impugned order dated 07.10.2024, through which, the request of the writ petitioner was rejected stating pendency of the disciplinary proceedings and the punishment imposed on him disentitle him to get himself included in the panel for the year 2016-17. The writ petitioner has also sought for a direction to the official respondents to promote him to the post of Assistant Conservator of Forests from the date on which, his juniors were given promotion as per the panel 2016-17.

4. The writ Court allowed the writ petition stating that once a Government employee is cleared of all the charges which were cited as



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legal impediment for inclusion in the panel, the Government employee is entitled to get restored, his seniority and retrospective promotion from the date on par with his juniors. Mere pendency of charges on a date later than the crucial date cannot be taken into consideration. Thus, the writ Court set aside the order impugned therein and directed the 1st respondent therein to include the petitioner in the panel 2016-17 for promotion to the post of Assistant Conservator of Forest and promote him with effect from the date on which his immediate junior was promoted. Aggrieved by the said order, the appellants/Department are before this Court.

5. The learned counsel for the appellants would contend that the promotion of the writ petitioner/respondent is subject to the provisions as per the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. She would further contend that as per Rule 7(1) of Schedule II Part A of the Tamil Nadu (Conditions of Services) Act, 2016, pendency of charges framed under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules against a member of a service shall be a bar for including his name in the approved list. As per the said Rule, the



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name of the respondent was not included in the panel for the year 2016-17. As far as promotion is concerned, the Rule contemplates that punishment is a bar for promotion and currency of punishment when the panel fit for promotion is prepared and the employees, who are facing disciplinary proceedings shall not be eligible for inclusion in the panel for promotion. However, the writ Court has allowed the writ petition without considering these aspects and the fact that the charges were framed against the respondent in Case No.03/2023 and as per the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the name of an employee shall not be considered for inclusion in the panel, if any enquiry is pending against him. In the present case, since an enquiry is pending against the respondent, he was not included in the panel. The writ Court has not taken into consideration the impugned order in Government letter No.992/Fr.1 2024-2 dated 07.10.2024, which is a speaking order.

6. We have considered the rival submissions and perused the materials available on record.



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7. It is not in dispute that the disciplinary proceedings initiated against the respondent has come to an end through the order of the appellate authority. On the appeal filed by the respondent, the appellate authority has exonerated the respondent from all the proceedings. Therefore, it is clear that the seniority of the respondent is to be restored and the name of the respondent to be included in the panel for the year 2016-17. The respondent raised an legal impediment that on the date of preparation of panel, the check period arising out of the show cause notice dated 21.04.2022 has not been completed. On considering this aspect, the writ Court considered the case of the respondent in the light of the decisions of the Hon'ble Supreme Court as well as this Court and had held that once a Government employee is cleared of all the charges, which were cited as legal impediment, he is entitled to be included in the panel on par with his juniors. The writ Court had also held that mere pendency of charges on a later date cannot be taken into consideration.

8. At this juncture, it is relevant to refer to the judgment in ***Delhi Jal Board Vs. Mahinder Singh [(2000) 7 SCC 210]***, wherein in paragraph No.5, the Hon'ble Supreme Court had held thus:



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“5.....The mere fact that by the time the disciplinary proceedings in the first inquiry ended in his favour and by the time the sealed cover was opened to give effect to it, another departmental enquiry was started by the department, would not, in our view, come in the way of giving him the benefit of the assessment by the first Departmental Promotion Committee in his favour in the anterior selection. There is. therefore, no question of referring the matter to a larger Bench.”

9. When identical issue came up for consideration before this Court, a coordinate Bench of this Court in ***W.A.No.2335 of 2019 (The Principal Secretary to Government and others Vs. S.Ram Kumar)*** dated 07.10.2020, the Bench had held in paragraph No.13 as follows:

“13.We find that the learned Single Judge has come to a just conclusion while passing the impugned order. In the facts of the case, issue of a subsequent charge memo or initiation of fresh departmental proceedings cannot be a bar for considering the promotion of the respondent as an Assistant Director for the panel year 2012-13. Promotion which was earlier withheld because of pendency of criminal proceedings can no longer act against the respondent as he was



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acquitted in the criminal proceedings.....”

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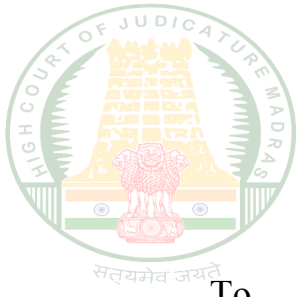
10. In the present case also, when the earlier disciplinary proceedings ended in favour of the respondent, the subsequent proceedings would not come in the way of giving him the benefit of inclusion in the panel for the year 2016-17. Since the present case is also squarely covered by the decision of the Hon'ble Supreme Court in ***Delhi Jal Board*** (supra), we are not inclined to interfere with the well considered order of the writ Court. Accordingly, the writ appeal stands dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

[J.N.B.,J]

[S.S.Y.,J]

25.04.2025

NCC : Yes/No
Index : Yes/No
RR



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J.NISHA BANU, J
AND
S.SRIMATHY, J.

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ORDER
IN
WA(MD) No.1117 of 2025

Date : 25/04/2025