



W.A.(MD)No.140 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

WA(MD)No.140 of 2021

and

CMP(MD)No.401 of 2021

1.The Principal Secretary to Government,
Public Works Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The Engineer-in-Chief,
Water Resources Department and
Chief Engineer (General),
Public Works Department,
PWD Campus,
Chennai – 600 005.

... Appellants /
Respondents

Vs.

R.Thayalakumar

... Respondent /
Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to allow the writ appeal and set aside the order dated 27.01.2020 in W.P(MD)No.6903 of 2019.



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For Appellants : Mr.M.Siddharthan
Additional Government Pleader

For Respondent : Mr.A.K.Manickam

JUDGMENT

(By G.R.Swaminathan J.)

Heard both sides.

2.This intra-court appeal is directed against the order dated 27.01.2020 passed by the learned Single Judge allowing WP(MD)No. 6903 of 2019 filed by the respondent herein.

3.The respondent herein was working as Assistant Executive Engineer in Water Resources Department. The next promotion panel post is that of Executive Engineer. The crucial date was 03.04.2018. The writ petitioner ought to have been empanelled in the promotional panel for the year 2019. However, on account of implication of the writ petitioner in a criminal case on 03.09.2018, his promotion was withheld and he was not empanelled. Consequently, the writ petitioner's name was not included in the promotion panel. The respondent therefore filed W.P(MD)No.6903 of 2019. The learned single Judge allowed the writ petition vide order dated 27.01.2020 in the following terms:



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“6.It is not in dispute that the list of approved candidates fit for promotion to the post of Executive Engineer in the Public Works Department was approved as on 01.04.2018, which is the crucial date. It is also not in dispute that the criminal case against the petitioner was came to be registered on 03.09.2018, which is also the date of occurrence in the FIR. In other words, on the crucial date of consideration of the panel for promotion, the petitioner was not involved in any criminal offence. While that being so, there is absolutely no explanation on the part of the respondents as to how the petitioner's name was omitted when the panel was approved on 01.04.2018, on which date there was no criminal proceeding pending against the petitioner. Hence, the averments made in the counter affidavit could only be an after thought, since the fact remains that when the panel came to be preferred on 01.04.2018, there was absolutely no criminal case, which is referred to by the respondents, to justify the petitioner's non-inclusion. On this sole ground, the objection raised by the respondents, in attempting to justify their act in not including the petitioner's name, is totally baseless and also illegal.

7.Insofar as Section 7(1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 is concerned, Schedule-II referred to in Section 7 of the Act, states that mere filing of case shall not be a bar for



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inclusion of the employees in the approved list. What is referred to as a bar for inclusion is that, specific charges ought to have been framed or charge sheet should have been filed in the criminal case, as on the crucial date. When it is admitted by the respondents themselves that there was no criminal case pending against the petitioner on the crucial date, there is absolutely no justification for having omitted to include the petitioner's name and as such, the petitioner would be entitled to succeed in the present writ petition.

8.Though the petitioner has sought for quashing the entire promotional panel, this Court is of the view that the respondents should be directed to promote the petitioner notionally from the date when his immediate juniors were promoted, since it is stated that the impugned promotional panel has already been acted upon and the Government employees referred to in the panel, have also been extended with the promotion.

9.For all the foregoing reasons, there shall be a direction to the first respondent herein to notionally promote the petitioner to the post of Executive Engineer from the date on which his immediate junior was promoted and consequently extend all service and monetary benefits from the date of such promotion, to the petitioner. Such process of issuing a promotional order shall be done, atleast within a period of four weeks from the date of receipt of a copy of this order. The petitioner shall also be



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entitled to all service and monetary benefits from that date onwards. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.”

4.The question that calls for consideration is whether this order deserves to be interfered with.

5.The learned Additional Government Pleader appearing for the Government is right in his contention that if any criminal case is registered between the crucial date and the actual date of promotion, it would certainly have a bearing and the employee cannot insist as a matter of right that he has to be included in the panel for promotion. Vide order dated 11.07.2025 in WA(MD)No.1822 of 2023 (R.Santhi v. District Collector), this Court has taken the view that the position that obtains on the crucial date alone is not sufficient and that subsequent developments will also have to be taken into account. If before the actual promotion could be given, charge under Rule 17(b) has been framed, then, promotion cannot be granted. The same principle will apply in the case of implication in a criminal case before actual promotion. The order of the learned Single Judge should be understood in the light of the aforesaid legal position. Be that as it may, in the case on hand, the writ



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petitioner was not involved in any vigilance case. It was a case arising under Section 304 A of IPC. The criminal case also ended in acquittal.

Therefore, the question of adopting the approach laid down in **Santhi** case does not arise.

6.The Government has also issued G.O(2D)No.14 Water Resources (A1) Department dated 08.05.2023 granting relief to the writ petitioner in the following terms:

“7. The Government after careful examination of the proposal of the Engineer-in-Chief and Chief Engineer (General), Water Resources Department have decided to accept it and hereby restore the seniority of Thiru.R.Thayalkumar, Assistant Executive Engineer, Water Resources Department by including his name in the temporary list of Assistant Executive Engineer (Civil) fit for promotion to the post of Executive Engineer (Civil) for the year 2018-2019 at SI.No.24(a), below the name of Thiru.C.Meenakshi Sundaram (SI. No.24) and above the name of Thiru.G.Sivakumar (SI.No.25) approved in G.O(2D) No.5, Public Works (A1) Department, dated 12.02.2019.

8. Consequent on restoration of seniority, the pay of Thiru.R.Thayalkumar, Assistant Executive Engineer, Water Resources Department shall be regulated as per ruling 17 under FR 27.”



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7.In view of the issuance of the aforesaid GO, nothing survives for further adjudication. This Writ Appeal is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [R.K.M, J.]
09.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
MGA/skm

To

1.The Principal Secretary to Government,
Public Works Department,
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2.The Engineer-in-Chief,
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