

W.P.(MD) No.983 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 28.07.2025

Pronounced On : 13.08.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) No.983 of 2017

and

W.M.P.(MD)No.830 of 2017

C.Selvamoothy,
S/o.Cholaraja Velusamy,
A-22, Housing Unit,
Ponnamaravathi Post and Taluk,
Pudukottai District - 622 408

... Petitioner

Vs.

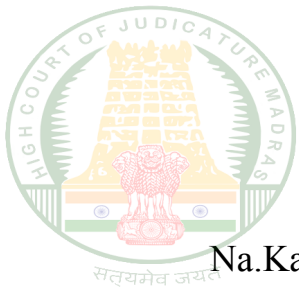
1. The Director,
Ex-Servicemen Welfare Department,
No. 22 Raja Muthiah Salai,
Chennai - 600 003.

2.The Principal Secretary to Government,
Public Department,
Government of Tamil Nadu,
Secretariat,
Fort St.George,
Chennai - 600 009.

... Respondents

PRAYER in W.P.:

To issue a Writ of Certiorarified Mandamus or any other appropriate order or direction calling for the records of the 1st Respondent in



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Na.Ka.No.12714/2016/Nir5, dated 02.08.2016 and his earlier proceeding in Se.Mu.Order No.23928/2012/Nir5, dated 06.07.2015 and consequential order of the 2nd Respondent having proceedings No. 23928/2012/Nir5, dated 03.11.2015 and quash the same and consequently direct the 1st Respondent to regularize the services of the Petitioner in the post of Assistant Director, Ex-Servicemen Department for the years 2012-13 and 2013-14 with retrospective effect from 23.07.2013 by revising the proceedings dated 27.04.2015 having Ref. No. 8646/2015/Nir.1 including the name of the Petitioner immediately above Mr.R Jayagopal, i.e., junior of the petitioner and pass such further or other order as this Hon'ble court may deem fit and thus render justice.

PRAYER in W.M.P:

To issue an order of interim stay for the operation of the order of the 2nd respondent having proceedings reference No.23928/2012/Nir.5, dated 03.11.2015 confirming the order of the 1st respondent having proceedings reference No.23928/2012/Nir.5, dated 06.07.2015 imposing the punishment of censure on the petitioner pending disposal of the writ petition.

APPEARANCE OF PARTIES:

For Petitioner : Mr. S.Karthik, Advocate

For Respondents : Mr.J.Ashok
Additional Government Pleader for R1& R2



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JUDGMENT

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Heard.

2. The petitioner was serving as an Assistant Director in the Ex-Servicemen Welfare Department under the administrative control of the first respondent. At the time of institution of the writ petition, he was aged 54 years. By now, he would have attained the age of superannuation, i.e., 62 years, and would have retired from service.

3. The petitioner, in the present writ petition, challenges the order dated 06.07.2015 passed by the first respondent, whereby the punishment of “censure” was imposed on him. The said punishment was confirmed by the second respondent vide order dated 03.11.2015. The petitioner also assails the consequential communication dated 02.08.2016, whereby his representation was rejected, informing him that, in view of the said punishment of censure and during the currency thereof, his name could not be included in the panel for promotion.



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4. The writ petition was admitted on 07.02.2017. Pending the writ petition, in W.M.P. (MD) No. 830 of 2017 filed by the petitioner seeking interim stay, this Court ordered notice alone. Pursuant to the notice, the respondents entered appearance and filed a counter affidavit dated 05.06.2017.

5. The petitioner contended that the punishment of “censure” was liable to be set aside on the ground of vagueness and for the reason that the appellate authority had failed to appreciate the grounds urged by him. It was further submitted that “censure” is only a minor penalty, which, as per the guidelines issued by the Government, takes effect from the date of issuance of the order and remains in currency only for a period of one year. Therefore, the said punishment could not have been taken into account for denying promotion to the petitioner. It was also urged that there was an inordinate delay in completing the disciplinary proceedings.

6. In the counter affidavit filed on behalf of the respondents, it was asserted that the charges No. 1 and 2 framed against the petitioner were of a serious nature. With respect to Charge No. 1, it was contended that the petitioner had wrongly submitted a “Nil” report despite eligible candidates



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being available in the live register. As regards Charge No. 2, it was stated that the petitioner had unjustly eliminated eligible candidates by sponsoring only three candidates on 10.08.2012 and thereafter forwarding a list of four candidates by fax. In respect of Charge No. 3, it was stated that, while preparing the list of eligible candidates, the petitioner had incorrectly fixed seniority, thereby denying the opportunity to genuinely eligible candidates.

7. The departmental enquiry report concluded that Charges No. 1 and 2 stood proved in full, while Charge No. 3 was proved in part. It was further recorded that the petitioner had been transferred to Tiruchirappalli on administrative grounds. The petitioner's appeal to the second respondent was duly considered and rejected. In view of the fact that the penalty imposed is only that of "censure" for three serious charges—two fully proved and one partially proved—this Court finds no reason to interfere with the impugned punishment.

8. With regard to the denial of promotion and the alleged violation of the guidelines, it has been specifically averred in paragraphs 13 and 14 of the counter affidavit as follows:—



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“13.....As per page number 9 under Ser.No. (1-F) of G.O.Ms.No.22 P&AR(S) Department, Dated 24.02.2014, “Pendency of charges framed under rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules against a member of a service shall be a bar for inclusion of his name in the approved list”. Since the charges were framed under rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules vide Director of Ex-Servicemen’s Welfare, Chennai – 3, proceedings No.23928/2012/E5, Dated 17.09.2012, name of the petitioner was not included in the panel for regularization of temporary promotion to the post of Assistant Director.

14.as per Government of Tamil Nadu letter Ms. No.248 P&AR(S) Department, Dated 20.10.1997, if charges are framed under rule 17(b) as a result of remittal order the name need not be included in the panel for promotion. As per page number 9 under Ser.No.(1-F) of G.O.Ms.No.22, P&AR(S) Department, Dated 24.02.2014.”

9. Though reliance was placed upon the judgment of the Full Bench in *the Deputy Inspector General of Police v. V. Rani*, reported in 2011 (3) CTC 129, the Full Bench, in the said decision, had observed as follows:—

“During the period of currency of minor punishment, an employee cannot claim as a matter of right to be promoted to the next category merely on the basis that he is otherwise fit for promotion and to that extent, the finding of the Division Bench in *Subramanian v. Government of Tamil Nadu, rep. by its Secretary, Chennai and others*, 2008 (5) MLJ 350, stands overruled. It is needles to state



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after the currency of punishment period, the Government servant is entitled to be considered for promotion to the next post, if otherwise eligible."

10. It was precisely for this reason that the petitioner contended that the punishment should take effect from the date of issuance of the order. In the present case, however, the petitioner preferred an appeal to the second respondent, and the punishment attained finality only upon disposal of the appeal by the appellate authority. The petitioner cannot have it both ways.

11. In view of the foregoing discussion, this Court finds there is no substance in the contention urged by the petitioner. Accordingly, the writ petition stands dismissed. There will be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

13.08.2025

Index: Yes / No
Speaking Order / Non-speaking Order
Neutral Citation : Yes / No

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Copy to

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Pre-delivery Judgment made in
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