



W.A(MD)No.591 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 19.03.2025

CORAM :

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

**W.A(MD)No.591 of 2024
and
C.M.P(MD)No.4244 of 2024**

The District Collector,
Dindigul District.

... Appellant

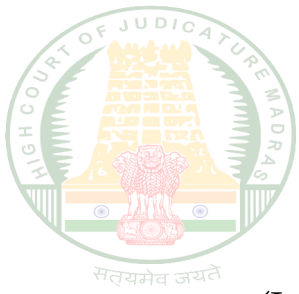
vs.

Jaber Sadiq

... Respondent

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 11.11.2019 made in W.P(MD)No.21879 of 2019.

For Appellant : Mr.Veera Kathiravan
Additional Advocate General for
Mrs.D.Farjana Ghoushia
Special Government Pleader
For Respondent : Mr.D.Venkatesh



W.A(MD)No.591 of 2024

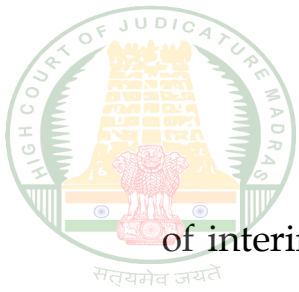
JUDGMENT

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

This writ appeal is filed against the order dated 11.11.2019 made in W.P(MD)No.21879 of 2019.

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

While the respondent / writ petitioner was working as a Deputy Block Development Officer, (Admin) Panchayat Union, Thooppampatti, he was arrested on 07.04.2015 by the Inspector of Police, Vigilance and Anti-Corruption, Dindigul, in a trap case. Therefore, he was suspended from service and was paid subsistence allowance. The respondent made a representation for revoking the suspension and the same was rejected by order dated 08.02.2016, on the ground that final report has been filed by the Vigilance and Anti Corruption Department in the criminal proceedings and based on the outcome of the case only, the request of the petitioner for revoking the suspension can be considered. Challenging the said order, the respondent filed W.P(MD)No.4666 of 2016 and this Court, by the order dated 08.03.2016, had granted an order



W.A(MD)No.591 of 2024

of interim stay. In view of the order of stay, on 21.09.2016 the appellant has revoked the order of suspension and posted the respondent as a Deputy Block Development Officer Camp Office, Dindigul.

2.1. While the respondent was working in the said capacity, a panel for promotion to the post of Block Development Officer for the year 2019-2020 was prepared. Out of 9 names in the panel, the respondent's name was shown at Serial No.7 in the list. However, he was not promoted. The appellant by proceedings dated 14.06.2019, informed the respondent that in view of the pendency of the criminal case as well as the charge memo dated 28.08.2017 issued to him under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, his name was not considered. Therefore, the respondent filed an appeal dated 21.06.2019 before the appellant which came to be rejected on 03.07.2019.

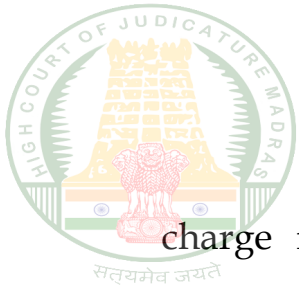
2.2. Against the said order, the respondent filed writ petition and the Writ Court allowed the writ petition, holding that when criminal proceedings and disciplinary proceedings are pending for long time, the



W.A(MD)No.591 of 2024

respondent can be promoted, after getting an affidavit of undertaking to the effect that in the event of his failure in the criminal case, he can be reverted to the lower post. Challenging the said order, this intra-court appeal is filed by the District Collector.

3. Assailing the impugned order, learned Additional Advocate General appearing for the appellant would submit that the Writ Court failed to consider that Schedule-XI(6) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 specifically imposes a bar for inclusion of a member of Government service in the approved list for promotion, if he/she is arrested for an offence under the Prevention of Corruption Act, 1988. In the present case, the respondent was arrested on 07.04.2015 by the Inspector of Police, Vigilance and Anti-Corruption, Dindigul, in a trap case and therefore, the Writ Court ought not to have allowed the writ petition, ignoring the specific bar for promotion as stated above. He would further contend that Schedule-XI(8) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 also prohibits inclusion of the member of service in the approved list for promotion, if such member of Government service is issued with a

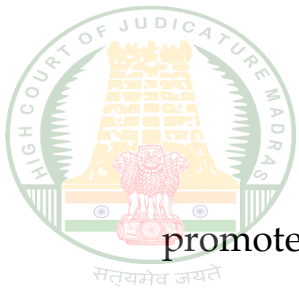


W.A(MD)No.591 of 2024

charge memo under Rule 17(b) of the Tamil Nadu Civil Services

(Discipline and Appeal) Rules. However, without advertent to the same, the Writ Court relied upon the judgment reported in **2011 (3) CTC 129 in the case of Deputy Inspector General of Police vs. P.Rani**, where, it has been held that when criminal proceedings and disciplinary proceedings are pending for long time, an employee can be promoted, after getting an affidavit of undertaking to the effect that in the event of his failure in the criminal case, he can be reverted to the lower post, and allowed the writ petition. The said approach is completely erroneous since the criminal case itself was registered in 2015 and therefore, it cannot be said to be pending for a long time. Thus, the learned Additional Advocate General would pray for setting aside the impugned order.

4. Learned counsel appearing for the respondent would state that relying upon the judgment reported in **2011 (3) CTC 129 in the case of Deputy Inspector General of Police vs. P.Rani**, the Writ Court has rightly held that when criminal proceedings and disciplinary proceedings are pending for a long time, the respondent can be



W.A(MD)No.591 of 2024

promoted, after getting an affidavit of undertaking to the effect that in the event of his failure in the criminal case, he can be reverted to the lower post. Thus, he would pray for dismissal of the appeal.

5. Heard both sides.

6. The respondent/writ petitioner has been arrested on 07.04.2015 by the Inspector of Police, Vigilance and Anti-Corruption, Dindigul, in a trap case. He was also proceeded departmentally by framing charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. As rightly contended by the learned Additional Advocate General, Schedule-XI(6) and (8) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 clearly imposes a bar for inclusion of the respondent's name who was arrested in a trap case and also issued with a 17(b) charge memo. Thus, on both the grounds namely, arrest in a vigilance case and pendency of 17(b) charges, the respondent is not entitled to be included in the approved list for promotion in view of Schedule-XI(6) and (8) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016. However, the



W.A(MD)No.591 of 2024

Writ Court has erroneously allowed the writ petition. Hence, this writ

WEB COPY appeal is liable to be allowed.

7. Accordingly, the impugned order dated 11.11.2019 made in W.P(MD)No.21879 of 2019, is set aside and the Writ Appeal is allowed. No costs. Connected miscellaneous petition is closed.

[J.N.B, J.] [S.S.Y, J.]
19.03.2025

Index : Yes / No
Neutral Citation : Yes / No
bala

To

The District Collector,
Dindigul District.



WEB COPY



W.A(MD)No.591 of 2024

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

bala

JUDGMENT MADE IN
W.A(MD)No.591 of 2024
DATED : 19.03.2025