

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2019

CORAM :

THE HON'BLE MR.A.P.SAHI, THE CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.NO.3889 OF 2019
AND C.M.P.NO.24441 OF 2019

The Commissioner of Town and
Country Planning, 807, Anna Salai,
Chennai 600 002. ... Appellant/Respondent

-vs-

V.R.Rajaraman ... Respondent/Petitioner

Appeal filed under Clause 15 of the Letters Patent against
the order dated 16.04.2019 passed in W.P.No.31672 of 2015 on the
file of this Court.

W.P.No.31672 of 2015:-

Writ Petition filed under Article 226 of the constitution of
India, praying to issue a Writ of Certiorarified Mandamus to
call for the records connected with Na.Ka.No.10681/13/k2 dated
8.8.2013 and R.O.C.No.10681/2013/k2 dated 31.01.2014 passed by
the respondent and quash the same and direct the respondent to
include the name of the petitioner in the panel for promotion to
the post of Draughtsman Grade III for the year 1998 and promote
the petitioner to the post of Draughtsman Grade III
w.e.f.15.6.1999 along with consequential promotion as
Supervisor/ Draughtsman Grade II w.e.f.7.2.2006 with all
benefits (Prayer amended as per order dated 24.08.2017 in
W.P.No.34997 of 2019 in WP.No.31672 of 2015.

For Appellant : Mr.V.Jayaprakash Narayanan
Govt. Pleader

For Respondent : Mr.K.Sannjay

JUDGMENT
(Delivered by Subramonium Prasad, J.)

The Government has assailed the order dated 16.04.2019 passed in W.P.No.31672 of 2015, whereby the learned Single Judge has granted the writ as prayed for by the respondent/writ petitioner and has directed the appellant herein to consider the claim of the respondent/writ petitioner for promotion to the post of Draughtsman Grade II and pass appropriate orders in the light of the Full Bench Judgment in Deputy Inspector General of Police and Anr., vs. V.Rani, 2011 (4) MLJ 1 (FB).

2.The respondent / writ petitioner was appointed as Draughtsman Grade-III. His name was to be included in the panel for the post of Draughtsman Grade-II. By an order dated 25.08.1997, a charge memo was issued for mis-conduct and punishment was imposed on the respondent/writ petitioner for two years increment cut without cumulative effect. On appeal, the punishment was modified and was reduced to increment cut for a period of six months. The crucial date for preparation of panel for promotion to the post of Draftsman Grade II is 01.09.1998. The respondent/writ petitioner claimed that the currency of punishment would be over on 25.02.1998 and therefore, he was entitled to be placed in the panel for promotion for Draughtsman Grade-II for 1999-2000. When his request was not acceded to by the Government, the respondent/writ petitioner approached this Court by filing W.P.No.31672 of 2015.

3.The learned Single Judge, after going through the sequence of events, held that the order modifying the punishment was passed by the appellate authority on 28.08.2006. This order would relate back to the date of original punishment, which is 25.08.1997 and by virtue of the modification of punishment which was reduced from two years increment cut to six months increment cut, the currency of punishment would only be till 25.02.1998, which was before the crucial date of promotion which is 01.09.1998. The learned Single Judge, accordingly, allowed the writ petition.

4.The said order has been assailed by the appellant / State stating that the amount to be paid by virtue of the cut in increment would start from first of January that year and therefore, the currency of punishment continued on the crucial date and the respondent was not entitled to be promoted. This argument has to be rejected. The implementation of the punishment and the date from which the punishment is to be counted are entirely different. The order of punishment would be with effect from 25.08.1997 and currency of punishment would end on 25.02.1998, which is before the crucial date of promotion, which is 01.09.1998.

5.Learned counsel for the appellant would also contend that the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, applies retrospectively and therefore, the name of the respondent/writ petitioner cannot be included in the panel. We do not find anything in the Act which would take away the rights, which have accrued and vested prior to the Act coming into force.

In view of the above, this Court does not find any necessity to interfere with the order of the learned Single Judge. The Writ Appeal is, accordingly, dismissed. There shall be no order as to costs. Consequently, C.M.P.No.24441 of 2019 is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sra

To

The Commissioner of Town and
Country Planning, 807, Anna Salai,
Chennai 600 002.

+1cc to Mr.G.Elenchezhiyan, Advocate, S.R.No.100177

+1cc to the Government Pleader, S.R.No.100704

W.A.No.3889 of 2019

SSD(CO)
CS/06/01/2020

सत्यमेव जयते

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