
(2010) 08 MAD CK 0430

Madras High Court

Case No: Writ petition No. 44768 of 2006 and O.A. No. 4456 of 2000

R. Venugopal

APPELLANT

Vs

Govt.of Tamil Nadu

RESPONDENT

Date of Decision: Aug. 30, 2010

Acts Referred:

- Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 - Rule 17

Hon'ble Judges: T. Raja, J

Bench: Single Bench

Advocate: M. Ravi, for the Appellant; S. Gopinathan, Additional Government Pleader for Respondent 1 and 2, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

T. Raja, J.

The Petitioner P. Venugopal came to the Tamil Nadu Administrative Tribunal by filing O.A. 4456 of 2000 seeking a prayer to call for the records of the first Respondent relating to letter No. 42086/E1/99, Rural Development Dept., dated 08.01.2000, quash the same as far as the non-inclusion of the name of the Petitioner is concerned and issue consequential directions to include the name of the Petitioner in the panel for the year 1999 -2000 for promotion as Divisional Development Officer/Personal Assistant (Panchayat Development) to the collector in the appropriate place and consequentially promote him as such with retrospective effect from the date of promotion of his immediate junior, with consequential benefits.

2. The learned Counsel appearing for the Petitioner submits that the Petitioner while serving as a Block Development Officer, was qualified and eligible for promotion as Divisional Development Officer/Personal Assistant (Panchayat Development) to the Collector. He possessed the requisite qualifications with seniority. But he was

informed by the first Respondent, in letter No. 42086/E1/99, Rural Development Department dated 08.01.2000, that this name was not included in the panel of B.D. Os fit for promotion as Divisional Development Officer/P.A. (Panchayat Development) to the Collector for the year 1999 -2000, for the year 1999-2000 for the reasons that specific charge framed against the Petitioner under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules is pending against him; that a charge sheet was filed in a Criminal case against the Petitioner, that the Petitioner was awarded penalty during the check period and finally that the Petitioner was awarded penalty during the check period which is in currency on the crucial date within one year before the crucial date. The Petitioner was clearly informed that consideration of his name for inclusion in the panel approved in G.O.(4D) No. 2, Rural Development Department., dated 08.01.2000, had been deferred till the relevant proceedings are concluded. The learned Counsel for the Petitioner submits that the said order has been passed without proper application of mind to the real position with reference to records and none of the reasons apply to the case of the Petitioner. He has further submitted that there was no specific charge under Rule 17(b) of the Tamil Nadu Civil Services (D and A) Rules pending against the Petitioner, as alleged and that part, no charge sheet was filed in any criminal case against the Petitioner and when the criminal case registered against the Petitioner by the Vigilance and Anti-corruption Unit, Salem is under investigation and no charge sheet was filed, mere registration of case in the Court cannot be held against the Petitioner unless a charge sheet is filed. On that basis, he further contended as on the crucial date i.e., on 8.1.2000, when no charge sheet was pending and he has not suffered any imprisonment, the case of the Petitioner for promotion should have been considered and on that basis he prayed for allowing the writ petition.

3. The learned Counsel for the Respondent submitted that the case of the Petitioner cannot be legally sustained in view of the amendment to G.O. Ms. 368, Personnel and Administrative Reforms (s) Department dated 18.10.93 introduced in letter Ms. No. 248 Personnel and Administrative Reforms Department dated 20.10.97 stating that if the charge sheet is filed in the criminal case, it should be held against the Officer and further it was stated that when trap and arrest were made under the Prevention of Corruption Act by Director of Vigilance and Anti-corruption, it should be treated as a serious offence and held against the Officer. Further when the Petitioner was arrested by registration of FIR on 25.12.99, though he was released subsequently the charge sheet was filed on 13.10.2001. In the meanwhile, the Petitioner retired from service 31.10.2000. Therefore on the ground the Petitioner was not in imprisonment as on the crucial date on 08.01.2000 could not help the Petitioner for including his name in the promotional panel as prayed for. On that basis he prayed for dismissal of the petition.

4. Heard the learned Counsel appearing on either side.

5. The Petitioner, while serving as Block Development officer in Salem District, was trapped and arrested by the Vigilance and Anti-Corruption Department for demand and acceptance of bribe to issue No Objection Certificate in order to get electrical power supply to bore well from Electricity Board and subsequently, criminal case (Cr. No. 11/AC/99) is also pending against him before the Chief Judicial Magistrate Court, Salem and the case also posted for hearing on 17.8.2010. Though the Petitioner attained the age of superannuation on 31.10.2000, he was not permitted to retire from service in view of pendency of the criminal case as well as the departmental proceedings. Apart from the above criminal case for which he was arrested and released from Jail, charges under Rule 17(b) of the Tamil Nadu Civil Services (D and A) Rules were framed for his above irregularities and he was also enquired in the above case. When the Petitioner filed the writ petition in W.P. No. 27641 of 2004 seeking to restrain the Respondents (District Collector, Salem and the Enquiry Officer) from proceeding further with the enquiry on the charges framed against the Petitioner, this Court, after hearing the parties, dismissed the writ petition by an order dated 24.8.2010. Another writ petition No. 44767 of 2006, which was filed by the Petitioner seeking to revise his seniority and offer further promotions, also came to be disposed of by this Court on the same date.

6. In the light of this background, the prayer sought for by the Petitioner to issue a direction for inclusion of his name in the panel for the year 1999 - 2000 for promotion as Divisional Development Officer/Personal Assistant (Panchayat Development) to the Collector cannot be considered for more than one reason. Though the crucial date, for inclusion of his name was 8.1.2000, well before the crucial date, the Petitioner was trapped and arrested by the Vigilance and Anti-corruption Department for demand and acceptance of bribe to issue No Objection Certificate in order to get electrical power supply to bore well from Electricity Board. Though the Petitioner was released immediately after his arrest and the charge sheet was also filed on 13.10.2001, in the meanwhile, the Petitioner reached the age of superannuation on 31.10.2000. As per the amendment made to G.O. Ms. No. 368, Personnel and Administrative Reforms (s) Department, dated 18.10.93, by Government Letter Ms. No. 248, Dated 20.10.1997, the effect pendency of the vigilance enquiry and the charges for inclusion in a panel for promotion and recruitment by transfer have been properly clarified. The said letter Ms. No. 248, dated 20.10.97 clearly says that if a charge sheet is filed in a criminal case it should be held against the officer concerned seeking promotion for further promotional post. Even trap and arrest made by the Vigilance and Anti-Corruption Department was also directed to be treated as a serious offence and the same should be held against the officer concerned seeking promotion. Therefore, contention of the Petitioner that there was no criminal case pending on the crucial date 8.1.2000 is absolutely unsustainable and far beyond the truth as admittedly the Petitioner was arrested on 25.12.1999 by Vigilance and Anti -Corruption Department for demand and acceptance bribe of Rs. 500/-for issuance of no objection certificate in order to

get electrical power supply to bore well from Electricity Board. Though the Petitioner was released and a criminal case was filed against him before The Chief Judicial Magistrate Court, Salem and case was also posted for hearing on 17.08.2010, in the meanwhile, the Petitioner also reached the age of superannuation on 31.10.2000. In this view of this matter, this Court finds, on the basis of amendment carried out in G.O. Ms. No. 368, Personnel and Administrative Reforms (s) Department, dated 18.10.1993, wherein it is stated that trap and arrest made under the Prevention of Corruption Act by Directorate of Vigilance and Anti-Corruption should be treated as serious offence, the Respondent authorities rightly held against the Petitioner.

7. For the fore-going reasons, this Court does not find any ground to grant the relief sought for by the Petitioner in the writ petition for inclusion of his name in the panel for the year 1999 -2000 for promotion as Divisional Development Officer/Personal Assistant (Panchayat Development) to the Collector, accordingly the writ petition is dismissed. No costs.