

(2014) 10 MAD CK 0275

Madras High Court

Case No: Writ Petition No. 19014 of 2014 and M.P. No. 1 of 2014

C. Subramani

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

Date of Decision: Oct. 17, 2014

Hon'ble Judges: M.M. Sundresh, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

M.M. Sundresh, J.

The petitioner was appointed initially as a Forrest Guard. From 4.1.2014 onwards, he was working as Forester in Palacode Range. Charges have been framed against the petitioner on 24.4.2012 and accordingly the petitioner was fixed the liability to pay a sum of Rs.3,61,395/. The recovery was directed to be made in 44 instalments commencing from May, 2012. The petitioner made an appeal before the 3rd respondent. Inspite of the order passed by this Court to dispose of the same at the earliest point of time, the appeal is yet to be disposed of. In the meanwhile, the promotion panel was drawn fixing crucial date as 15.8.2012 and 15.8.2013. The petitioner was not considered in view of the currency of punishment of recovery. Under those circumstances, the petitioner has filed the present writ petition.

2. Learned counsel for the petitioner submitted that the appeal filed by the petitioner has not been disposed of in spite of the directions issued by this Court in W.P.No. 1467 of 2013 by Order dated 23.5.2013. Out of the sum of Rs.3,61,395/, the petitioner has paid about Rs.2 lakhs. Even as per the amendment made in Government letter Ms.No. 54/S/2009, dated 19.5.2009, the petitioner is eligible to be considered for the ensuing year. Therefore it is submitted that appropriate directions may be issued to the authorities.

3. Learned Government Advocate appearing for the respondents submitted that the petitioner having not paid the amount as ordered against him cannot maintain this

writ petition and during the currency of the punishment the petitioner cannot be considered for promotion. Therefore, no interference is required.

4. Admittedly, the punishment imposed on the petitioner is not a major punishment. The Government letter by which the amendment has been made to G.O.Ms.No. 248 Personnel and Administrative Reforms Department dated 20.10.1997 is extracted hereunder:

In the said Government Letter, in para 4-II under the Heading ""EFFECT OF PUNISHMENTS ON INCLUSION IN THE PANEL after the sub-paragraph 2 and the provisions thereunder, the following sub-paragraph shall be added namely:-

1. ""2-A. Whenever instalments are fixed in respect of recovery orders to make good the monetary loss caused to the Government, a maximum period of 24 months only from the issue of order may be held against the individual for the purpose of promotion, even if it is ordered to be recovered in excess of 24 months/ instalments irrespective of the fact whether it is recovered in full or not"".

2. The above amendment will take effect from the 19th May of 2009."""

5. In view of the said amendment letter, there cannot be any bar for the petitioner being considered for the panel for the year 2014-2015. Therefore, 2nd respondent is directed to consider the case of the petitioner for the ensuing panel 2014-2015 by taking into consideration of the amendment made in Government letter No. 54/S/2009 dated 19.5.2009 as and when the panel is likely to be drawn. The reliance made upon by the petitioner on the Government Order and the letter No. 52132/5/2000-14 P & AR (S) Department dated 3.3.2003 will have to be read in the context of the amendment dated 19.5.2009. In other words, the letter dated 3.3.2003 cannot override the letter dated 19.5.2009 as the subsequent letter fixes maximum period of 24 months.

6. Accordingly, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.