

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA No. 435 of 2024

1. The Secretary To Government
Commercial Taxes and Registration (H2)
Department, Government of Tamil nadu,
Secretariat, Chennai-09.
2. The Inspector General Of Registration
Santhome High Road, Chennai-28.

..Appellant(s)

Vs

V.A.Anand

..Respondent(s)

Writ Appeal filed under Clause 15 of Letters Patent issuing certiorarified mandamus to set aside the order dated 17.07.2023 made in WP.No.17040 of 2023.

For Appellant(s): Mr.P.V.Balasubramanian,
Additional Advocate General

For Respondent(s): Mr.A.Navaneetha Krishnan,
Senior Counsel for Mr.R.Naveen

JUDGMENT**(Judgment of the Court was delivered by S.M.Subramaniam J.)**

Under assail is the writ order dated 17.07.2023 passed in W.P.No.17040 of 2023.

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2. State preferred the present Intra-Court Appeal under Clause 15 of the Letters Patent, mainly on the ground that departmental disciplinary proceedings are instituted against the respondent on allegations of corruption and the matter was referred to the Tribunal for Disciplinary Proceedings for conduct of enquiry. Thus, the promotion of the respondent was deferred, which resulted in filing of the writ petition by the respondent.

I. BRIEF FACTS:

3. The facts in brief are that the respondent is holding the post of Deputy Inspector General of Registration. The next avenue of promotion is to the post of Additional Inspector General of Registration.

4. Procedure for preparation of panel commenced and admittedly, the name of the respondent was included in the panel of Deputy Inspector General of Registration, fit for promotion for the post of Additional Inspector General of Registration. The panel was prepared on 27.10.2022. After preparation of panel, the departmental disciplinary proceedings are initiated, and the case was referred to Tribunal for Disciplinary Proceedings in TDP No. 04/2023 on the file of the Principal Secretary/Commissioner for Disciplinary Proceedings, Coimbatore. The departmental disciplinary proceedings are initiated through TDP prior to grant of actual promotion. Thus, the Government deferred grant of promotion to the respondent to the post of Additional Inspector General of Registration.

5. In this regard, the Government issued G.O.Ms.No. 45, Commercial Tax and Registration (H2) Department, dated 20.04.2023, stating that the name of the respondent was not considered for promotion to the post of Additional Inspector General of Registration, since departmental disciplinary proceeding is pending against him before the Tribunal for Disciplinary Proceedings at Coimbatore. The said order came to be challenged by way of

writ petition.

6. Writ Court considered the ground that the name of the respondent was included in the panel. Therefore, a right accrued, and promotion cannot be deferred. In other words, once the panel is prepared, departmental disciplinary proceedings initiated after preparation of panel is not a bar for promotion in view of Section 7 and Schedule XI of the Tamil Nadu Government Servants (Conditions of Service) Rules, 2016. On the said ground, Writ Petition was allowed. Thus, State preferred the present appeal.

II. SUBMISSIONS MADE ON BEHALF OF THE APPELLANT:

7. Mr.P.V.Balasubramaniam, learned Additional Advocate General appearing on behalf of the State, would submit that the proposition laid down by the Writ Court is running counter to the purpose and object of deferring promotions as well the provisions of the Service Conditions Act and the consolidated instructions issued by the Government for preparation of panel and grant of promotion. He would submit that mere preparation of panel would not confer any right. Departmental disciplinary proceedings are initiated prior to grant of promotion. The Government has got powers to defer promotion until the departmental disciplinary proceedings are disposed of.

8. In this regard, he would rely on the judgment of the Division Bench of this Court in the case of ***The Director General of Police, Chennai and***

Others Vs. K. Pitchai in W.A.(MD).No. 64 of 2019, dated 04.12.2020. The relevant portion is extracted hereunder:

“15. The law laid down by the Hon'ble Supreme Court in the above cases should be applied to the case at hand. The applicable statute is the Conditions of Service Act and, in particular, the relevant paragraphs of Schedule XI thereto. As stated in paragraph 11 supra, as per sub-para (1) of paragraph II of Schedule XI thereof, the promotion of an employee against whom there is a pre-charge memo/pre-charge sheet enquiry would be considered on merit but if charges have been framed or a charge sheet filed, the promotion would be deferred. Indeed, it is expressly stipulated therein that "in cases where specific charges have been framed or charge sheet has been filed in criminal case against a member of service, promotion or appointment of such member of service shall be deferred till such proceedings are concluded." From the above extract, it is evident that the critical event is the framing of charges or the filing of a charge sheet, as the case may be, and not the commencement of disciplinary proceedings.

16. In Jankiraman, as is evident from paragraph 16 thereof, the Supreme Court was unwilling to permit the sealed cover procedure in respect of an enquiry before the charge memo is issued because there is often inordinate delay in framing charges or charges are not framed at all and, in such event, the employee concerned would be put

to prejudice. By contrast, in this case, the charges were framed on 22.06.2017, even before the temporary promotion order was issued, albeit there was a delay in communication thereof. Although it is true that the crucial date was 01.04.2017 and, as on that date, the charge memo had not been prepared, the charge memo was admittedly prepared before the temporary promotion order was issued. As stated earlier, once charges were framed by finalizing the charge memo, sub-para (1) of paragraph II of Schedule XI of the Conditions of Service Act gets activated. Therefore, in the present statutory context, the fact that the disciplinary proceeding against the Respondent commenced only upon service of the charge memo, as per the ratio in Jankiraman, does not lead to the inference that the Respondent is entitled to promotion notwithstanding the charge memo. To put it differently, the commencement of disciplinary proceedings is distinct from the deferment of promotion, which gets triggered once charges are framed.”

III. SUBMISSIONS MADE ON BEHALF OF THE RESPONDENT:

9. Mr. Navaneetha Krishnan, learned Senior Counsel appearing on behalf of the respondents, would submit that the facts of the present case and the case of **K.Pitchai** relied on by the State are distinguishable. Therefore, the judgment is of no avail to the appellant. Secondly, he would contend that there is no specific bar to grant promotion once the name of an officer is included in

the panel. The Writ Court considered the judgment of the Division Bench of this Court in the case of **Government of Tamil Nadu, Public Works Department Vs. M. Balamohana Murugan** in W.A. No. 271 of 2020 and W.A. No. 626 of 2021, dated 02.09.2021. He relied on Paragraph 16 of the judgment, which is extracted hereunder:

“16. It is not out of place to mention that in a catena of decisions, various Division Benches of this Court deprecated similar actions of the authorities and extended benefits to the employees/Government servants. One such recent decision is the judgment of a Division Bench of this Court in V.Visweswaran V. Director of Handloom and Textiles, (2021) 5 MLJ 97, wherein, in paragraph 4, it has been held as follows :

"3.The only issue which falls for consideration in this appeal is whether the appellant's name can be passed over and not included in the panel for promotion to the post of Handloom officer on the ground that a charge memo was issued much after the crucial date. In this regard, it is relevant to note Section 7(1) of the Tamil Nadu Government Servants (Conditions of Service Act), 2016 which reads as follows:

“Mere filing of cases in Courts by the appropriate investigation Authority against a member of service, shall not be a bar for inclusion of his name in the approved list. If specific charges are framed or charge sheet has been filed in the criminal case on

the crucial date his name shall not be considered for inclusion in the approved list”.

4.In terms of the above provisions, what would be relevant is whether charge proceedings is pending as on the crucial date. According to the appellant, on the crucial date ie., 01.03.2014, there was no charge proceedings pending and charge memo was issued only on 12.01.2015. In the light of Section 7 of the conditions of Service Act, the competent authority who draws the panel for promotion has to consider the case of the candidate based on the said provisions namely, Section 7(1). Therefore, we are not agreeable with the findings rendered by the learned Single Bench in paragraph No.5, by laying down the broad proposition that pendency of charge even after the crucial date would be a bar. In fact, we find that there are no adequate reasons to support such a conclusion apart from the statutory provisions having not been taken note of. Therefore, we are of the view that the decision rendered in the writ petition cannot be taken to be laying down a general legal principal.”

10. Relying on the above judgment, he would submit that once the name of an officer is considered and included in the panel, then promotion cannot be deferred. Thus, preparation of panel confers right on the officer. Thus, the order of the Writ Court is in consonance with Section 7 and

Schedule XI of the Service Conditions Act, and the Writ Appeal is to be rejected.

11. This Court has considered the rival submissions made by the parties to the lis on hand.

IV. LEGAL PRINCIPLES GOVERNING PROMOTIONS:

12. The governing legal principles for grant of promotion to Government servants are:

- (i) Promotion per se cannot be claimed as an absolute right by a Government servant.
- (ii) Consideration for promotion is a fundamental right of an employee.
- (iii) All eligible employees are to be considered while preparing the panel of eligible persons fit for grant of promotion.
- (iv) Mere inclusion of name in the panel would not confer any right to claim promotion as a vested right.

(v) Calling for details of the officers from the department, preparation of the panel, are the procedures followed for grant of promotion and would not confer any right on employees to claim promotion.

(vi) Preparation of the panel is a departmental procedure to finalize the names of eligible candidates, waiting for promotion. Therefore, panel per se would not confer any right on a Government servant.

(vii) Panel is not a promotion, but the list of eligible candidates. Thus, no right accrues.

(viii) The pendency of charges under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules is not a bar for promotion.

(ix) The framing of charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules is a bar for promotion.

(x) The currency of punishment is a bar to promotion. In this regard, the consolidated instructions issued by the Government ought to be followed by the authorities scrupulously regarding the effect and operation of the currency of punishment against an

employee at the time of preparation of the panel of eligible employees.

V. STATUTORY PROVISIONS:

13. In the context of the above principles, let us now consider the relevant provisions of the Act as well as the consolidated instructions issued by the Government in consonance with the provisions of the Rules. Section 7 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 deals with the list of approved candidates. Sub-rule (1) of Section 7 states that promotion shall be made by the appointing authority from a list of approved candidates. Therefore, preparation of the list of approved candidates is a procedural aspect. The approved list shall be prepared in the manner specified in Schedule-XI by the competent authority. Schedule-XI of the Rules provides the ***Procedure for preparation of approved list.***

14. Clause II speaks about ***Consideration of members for inclusion in the approved list.*** Schedule XI provides consideration of members for inclusion in the approved list and not grant of promotion. Even while considering the names of the eligible officers, the pendency of charges framed under Rule 17-B of the Discipline and Appeal Rules shall be a bar to the inclusion of their names in the approved list. Clauses 11, 12, and 17 speak about the effect of punishments on promotion, which may not have direct application to the facts of the present case.

15. When the procedures contemplated under the Act is that an employee facing charges under Rule 17-B is not eligible for inclusion in the panel, it follows naturally that such persons, after preparation of the panel and before actual promotion, are not entitled to promotion. The very purpose and object of the procedure contemplated is to ensure that tainted officials are not promoted to a higher post.

16. The preparation of panel and calling for names, and all such procedures prescribed are aimed to grant promotion, to the eligible employees having clean service records. That being the purpose and object of the Rules, any contrary interpretation between the procedure prescribed and actual promotion would defeat the very purpose of the Act and procedures contemplated. The law stipulates that an officer with clean records must be promoted to a higher post. If any tainted officer is promoted on the ground that his name was included in the panel and therefore, despite the initiation of disciplinary proceedings he should be promoted to the higher post, the whole object of the procedures as well as the provisions under the Act for promotion will be defeated. The rule of constructive interpretation requires that the Act as well as the procedures contemplated therein are to be read conjointly and holistically to ensure that promotion Rules achieve its goal. The aim is to prevent tainted candidates from getting promotion to a higher post. Thus, any contrary interpretation would undoubtedly defeat the purpose of the Rules as well as the procedures contemplated.

VI. CONCLUSION:

17. It is not in dispute that an officer facing TDP charges is not eligible for inclusion of his name in the panel. An officer undergoing the currency of punishment is also not eligible for inclusion. When the pendency of charges and the currency of punishment are a bar to promotion, mere inclusion of name in the panel will not confer any right for promotion. Thus, promotion is granted only to untainted officers in the department.

18. It is immaterial that the disciplinary proceedings are initiated before or after preparation of the panel. Panel is list of eligible officers and not promotion. It is procedural and cannot be construed as promotion. Thus, no right accrues. Right accrues only after issuance of an order of promotion.

19. Therefore, this Court has no hesitation in arriving at the conclusion that, even if the name of an officer is included in the panel, which is a procedural process, and before the grant of actual promotion, if any departmental proceedings are initiated (in the present case, TDP proceedings), the officer is not eligible for promotion under the provisions of the Act and the procedures contemplated therein.

20. In view of the facts and circumstances, the order dated 17.07.2023 made in WP.No.17040 of 2023 is set aside and writ appeal is **allowed**. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.S.,J.) (N.S.,J.)
07-07-2026

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

GD

S.M.SUBRAMANIAM, J.

AND

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