



W.P.No.34864 of 2002

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 06.07.2026

Pronounced on : 10.07.2026

CORAM :

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.34864 of 2002

P.Sheik Dawood,
15, Mallamal Street,
Pettai, Tirunelveli.

... Petitioner

vs

Chairman & Managing Director,
Tamil Nadu Small Industries Corporation,
Chennai – 32.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records in reference No.18753/EE2/2002-2 dated 03.04.2002 quash the same and consequently direct the respondent to promote the petitioner as a Grade – I Foreman with effect from the day his junior was promoted with all attendant benefits.

For Petitioner : Ms.V.Sandhiya
for Mr.A.Immanuel
For Respondent : Mr.P.Sanjay Gandhi

ORDER

Heard the learned counsel for the petitioner and the learned counsel for



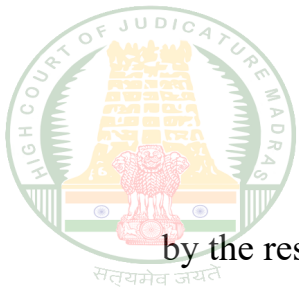
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the respondent and perused the record.

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2. The petitioner by the present writ petition has assailed the action of the respondent in issuing proceedings dated 03.04.2002 whereby the request made by him for granting promotion to the post of Grade – I Foreman with effect from the day his junior was promoted with all attendant benefits was rejected.

3. The petitioner contended that though the respondent by proceedings dated 11.01.2002/31.01.2002 had included his name at Serial No.24 in the panel for promotion to the post of Foreman Grade – I from the post of Foreman Grade – II, he was not granted promotion; that the respondent by the said proceedings while granting promotion, noted that owing to adverse remarks in his confidential report regarding poor performance, etc., his name has not been selected and included in the panel; that there was no adverse order that has been passed against him, for the respondent to infer adverse remarks against the petitioner for being excluded from granting promotion; that he was issued with a charge memo containing four articles of charge seeking his explanation dated 12.10.2001; that he had submitted his explanation thereto on 20.10.2001; and that no order has been passed thereon



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by the respondent.

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4. Petitioner contended that non-passing of any order by the respondent in furtherance of charge memo issued would amount to the respondent accepting the explanation submitted by him on 20.10.2001 and thus, the respondent could not have excluded him from being considered for promotion to the post of Foreman Grade-I by proceedings dated 11.01.2002/31.01.2002 noting that the same is on account of adverse remark in the confidential report.

5. It is the further case of the petitioner that on the respondent issuing the proceedings dated 11.01.2002/31.01.2002 excluding him from being granted promotion, he had submitted a representation to the respondent dated 13.03.2002; and that the respondent by the impugned proceedings had only stated that his request for re-examining the issue and to consider his promotion as Foreman Grade – I cannot be admitted, as the order withholding his promotion was based on record of his poor performance and that his request will be considered during the next panel after watching his performance in future without passing order one way or the other on the charge memo issued, to enable him to avail further remedies, if



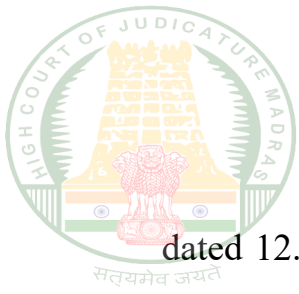
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aggrieved by the same. Thus, it is contended that the action of the respondent is highly illegal and arbitrary.

6. Petitioner contended that the respondent while refusing to pass a final order cannot deny him promotion on the ground of adverse remark in his confidential report; and that such denial of promotion is contrary to Rule 19 of TANSI Service Rules which prescribes that merit and ability be considered along with seniority for being granted promotion.

7. Contending as above, the petitioner seeks for quashing of the impugned proceedings and grant consequential and attendant benefits.

8. On behalf of the respondent, it is contended that though the respondent prepared a panel of Foreman Grade – II for promotion to the post of Foreman Grade – I, while approving the panel, the Promotion Committee found that three persons out of panel of 29 Employees were not to be considered owing to adverse remarks in the confidential reports, poor performance etc.; that the petitioner is one such employee; that the petitioner was issued with charge memo



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dated 12.10.2001 consisting of four charges out of which Charge Nos.3 and 4 are grave in nature; and that it is for the said reason, the same were reflected in his confidential report and the petitioner was not considered for promotion.

9. On behalf of the respondent, it is contended that along with the petitioner two other employees of the respondent namely Thiru.Sundar Raj and Thiru.Chandra Mohan were also not granted promotion to the post of Foreman Grade – I, the same reason; and that the said Sundar Raj on being excluded from granting promotion, approached this Court by filing W.P.No.37416 of 2002; that this Court by order dated 21.09.2012 rejected the said challenge and observed that since, the adverse remarks entered in the ACR were communicated to the petitioner and the petitioner therein, being aggrieved by the same, having made a representation which was also considered and rejected, the adverse entries reached finality and on the said basis, the Departmental Promotion Committee having rejected the petitioner therein from being granted promotion, and therefore, the petitioner cannot have any grievance.

10. The learned Standing Counsel submits that, this Court in the



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aforesaid decision further held that the Court cannot substitute its view in the place of administrative decision taken by the departmental promotion committee and since, the petitioner in the present case also stands on the same footing as the petitioner in the aforesaid Writ Petition namely P.Sundar Raj, the aforesaid decision would apply in all force to the said case.

11. Contending as above, the learned Standing Counsel appearing for the respondent seeks for dismissal of the writ petition.

12. I have taken note of the respective contentions as urged.

13. Though the petitioner's name was found included in the panel list for promotion to the post of Foreman Grade – I from Foreman Grade – II, admittedly, the petitioner was issued with charge memo dated 12.10.2001 consisting of four charges, of which Charge Nos.3 and 4 related to the petitioner tearing office records, using unparliamentary words on the office premises, spoiling the smooth functioning of the office and disobeying the superiors and habitually attending late and also absent from duties. It is this conduct of the petitioner that led the respondent making an adverse entry in his confidential report with regard to his



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poor performance.

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14. The fact of the name of the petitioner being included in the panel or the petitioner having seniority by itself is not sufficient to be granted promotion. Rule 19 of the Respondents' Service Rules prescribes that merit and ability is to be considered as the prime factors for granting promotion and only when the merit and ability are equal among different employees, seniority is to be considered.

15. In the facts and circumstances of the present case, the petitioner having been issued with charge memo itself goes to show that the petitioner has misconducted himself which has led the respondent making adverse entry in his confidential report. Though the petitioner had submitted a representation seeking for deletion/omission of the said entry in his confidential report regarding poor performance, the respondent having not found any reason to consider the representation of the petitioner, the adverse remark made in his confidential report remains on record and the Departmental Promotion Committee taking note of the said remark having excluded the petitioner from zone of consideration for promotion, this Court is of the view that no interference is called for with such



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administrative action as any such interference would only encourage indiscipline in the work place.

16. Further, a Co-ordinate Bench of this Court having already taken a view in respect of one of the employees who also stood excluded from being granted promotion on the same ground, in order to maintain parity and also for the reasons indicated herein above, this Court finds that the impugned order passed by the respondent does not call for any interference.

17. Accordingly, this Writ Petition fails and is dismissed. No order as to costs.

10.07.2026

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

dh

To
Chairman & Managing Director,
Tamil Nadu Small Industries Corporation,
Chennai – 32.



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T. VINOD KUMAR, J.

dh

Order made in
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