

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3340 of 2021

N.Vijayakumari

... Petitioner

-vs-

- 1.The Chairman & Managing Director,
Tamil Nadu Police Housing Corporation Ltd.,
Kilpauk, Chennai - 600 010.
- 2.The Chief Engineer,
Tamil Nadu Police Housing Corporation Ltd.,
Kilpauk, Chennai - 600 010.
- 3.The General Manager-cum-Company Secretary,
Tamil Nadu Police Housing Corporation Ltd.,
Kilpauk, Chennai - 600 010. ... Respondents

Prayer: Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus, directing the Respondents objection / representation submitted by the Petitioner dated 11.11.2019 for revision of seniority in the post of Assistant Executive Engineer in accordance with Tamil Nadu Police Housing corporation Regulations, 2019, on par with Juniors based on service seniority in the post of Junior Engineer, by considering the redesignated Assistant Engineer within the cadre of Junior Engineer ratio prescribed for promotion to the post of Assistant Executive Engineer and consequently draw panel for promotion to the post of Executive Engineer.

For Petitioner : Mr.G.Sankaran

For Respondents: Mr.J.Pothiraj
Spl. Govt. Pleader

O R D E R

The petitioner has filed this writ petition, seeking a direction to the Respondents objection / representation submitted by the Petitioner dated 11.11.2019 for revision of seniority in the post of Assistant Executive Engineer in accordance with Tamil Nadu Police Housing corporation Regulations, 2019, on par with Juniors based on service seniority in the post of Junior Engineer, by considering the re-designated Assistant Engineer within the cadre of Junior

Engineer ratio prescribed for promotion to the post of Assistant Executive Engineer and consequently draw panel for promotion to the post of Executive Engineer.

2. Mr.J.Pothiraj, learned Special Government Pleader takes notice for the Respondents. By consent on either side, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3. According to the petitioner, he was appointed as Technical Assistant on 18.02.1993 and was subsequently, promoted as Junior Engineer on 15.10.1998. It is the case of the petitioner that as per the present service Rules, the ratio of 3:1 has to be taken into consideration for promotion to the post of Assistant Executive Engineer (AEE) between directly recruited Assistant Engineer and Junior Engineer and on completion of 10 years of service, a Junior Engineer becomes eligible for promotion to the post of AEE. It is the grievance of the petitioner that his juniors, who have been re-designated as Assistant Engineer on acquiring B.E.Degree qualification, were considered for promotion to the post of Assistant Executive Engineer, though they have not completed 10 years of service in the post of Junior Engineer, which is against the principle laid down by the Apex Court in the case reported in 2013 (8) MLJ 479 (SC) and contrary to the letter dated 22.02.2019 issued by the Chief Engineer annexed in the typeset of papers. Aggrieved by the act of the respondents, he made a representation / objection dated 11.11.2019 to the respondents with regard to revision of seniority. Since the said representation did not evoke any response, he is before this Court.

4. Mr.J.Pothiraj, learned Special Government Pleader appearing for the Respondents contended that if a reasonable time is granted to the respondents, the representation of the petitioner will be considered and suitable orders be passed on the same.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the 1st respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 1st respondent herein to consider the representation of the petitioner dated 11.11.2019, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this order, in the light of the letter dated 22.02.2019, if applicable;

ii) In case the petitioner is unable to appear for personal hearing either physically or virtually, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 11.11.2019 and this order, to the 1st respondent forthwith;

v) The 1st respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs. Consequently, connected Miscellaneous Petition is closed.

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-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To:

1. The Chairman & Managing Director,
Tamil Nadu Police Housing Corporation Ltd.,
Kilpauk, Chennai - 600 010.
 2. The Chief Engineer,
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 3. The General Manager-cum-Company Secretary,
Tamil Nadu Police Housing Corporation Ltd.,
Kilpauk, Chennai - 600 010.
- + 1 cc to Government Pleader Sr.9522

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JP (CO)

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EU 8.8.2021