



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.6759 & 7786 of 2020

and

W.M.P.Nos.8039, 9182 & 9183 of 2020

(Through Video Conferencing)

K.V.Sundar

... Petitioner in both W.Ps

Vs

1. The Secretary to the Government,
Housing & Urban Development Department,
Secretariat, Chennai - 9.
2. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 5.
3. The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 5.

... Respondents in both W.Ps

Prayer in W.P.No.6759 of 2020: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondents to consider the claim of the Petitioner for promotion as Executive Engineer in the panel for the year 2020-21 without reference to the punishment of Stoppage of increment for a period of one year without cumulative effect from the date of award of the punishment imposed by the 2nd Respondent in his Proc.No.J3/2657/2014 dated 09/07/2019 and promote the Petitioner as Executive Engineer and grant him all consequential service and monetary benefits and grant such other further relief.

Prayer in W.P.No.7786 of 2020: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorafied Mandamus, calling for the records of the 2nd respondent in connection with the impugned orders passed by him in Rc.No.J3/2657/2014 dated 18.3.2020 and also the impugned panel of the Executive Engineer published by the 3rd respondent in his Proc.No.J1/3630/2020 dated 24.02.2020 for the post of the Executive Engineer and quash the same in so far as denying an non-inclusion of the name of the petitioner in the said panel



and further direct the respondents to consider the claim of the petitioner for promotion as Executive Engineer in the panel for the year 2020-2021 without reference to the punishment of stoppage of increment for a period of one year without cumulative effect imposed from the date of the award of the punishment by the 2nd respondent in his Proc.No.J3/2657/2014 dated 09.07.2019 and promote him as Executive Engineer and grant him all consequential service and monetary benefits and grant such other further relief.

For Petitioner : Mr.K.Venkataramani
(in both W.Ps) Senior Counsel
for Mr.M.Muthappan
For R1 : Mr.L.S.M.Hasan Fizal
Government Advocate
For R2 & R3 : Mr.M.Rajasekhar
(in both W.Ps)

COMMON ORDER

By this common order, both the writ petitions are being disposed of.

2. On the date of consideration of final hearing of these two writ petitions, it is noticed that the writ petition in W.P.No.6759 of 2020 has become infructuous. Therefore, W.P.No.6759 of 2020 is dismissed as infructuous.

3. As far as W.P.No.7786 of 2020 is concerned, it is noticed that the issue is now squarely covered by the decisions of this Court in W.P.No.4640 of 2016, W.A.Nos.546 & 620 of 2015 and in W.P.No.12008 of 2013 and that of an earlier decision rendered by this Court in a batch of writ petitions in W.P.Nos.29297, 34829 & 42591 of 2006.

4. The Impugned Order dated 18.03.2020 which places reliance on G.O.Ms.No.22, P&AR Department, dated 24.02.2014, also has been quashed by this Court in W.A.Nos.546 & 620 of 2015 referred to supra.

5. Incidentally, Schedule XI of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, prescribes the procedure for preparation of approved list for promotion. As per Rule 17, any punishment imposed on a member of service under Rule 8 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules shall make effect from the date on which the said punishment order is served on the member of service concerned and the name of such member shall not be considered for inclusion in the approved list until the said punishment is



over. In this case, originally the petitioner was imposed with a punishment of stoppage of increment for two years without cumulative effect vide order dated 09.01.2019. This order of punishment was modified and reduced vide order dated 09.07.2019 to stoppage of increment without cumulative effect to one year. Thus, the period of one year would have come to an end on 08.01.2020. Therefore, observation in the impugned order dated 18.03.2020 the currency of the punishment was effective only from 01.07.2019 for a period of one year i.e., 01.07.2019 to 30.06.2020 is unsustainable.

6. In view of the above observation, W.P.No.6759 of 2020 is dismissed and W.P.No.7786 of 2020 is allowed with a consequential relief to the petitioner. The respondents are directed to promote the petitioner to the post of Executive Engineer for the year from 2020-2021. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Housing & Urban Development Department,
Secretariat, Chennai - 9.
2. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 5.
3. The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 5.

+2ccs to Mr.M.Muthappan, Advocate, S.R.No.37797, 37798.

+1cc to Mr.M.Rajasekhar, Advocate, S.R.No.37810.

+1cc to the Government Pleader, S.R.No.38078

W.P.Nos.6759 & 7786 of 2020

PL(CO)

HS(25/08/2021)