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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2022

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.27356 of 2009
and M.P.No.2 of 2009

N.Balasubramanian

...Petitioner

Vs.

1. The Secretary to Government,
Housing & Urban Development Department,
Fort St.George, Chennai - 600 009.
2. The Tamil Nadu Housing Board,
Rep. by its Chairman
and Managing Director,
493, Anna Salai, Nandanam, Chennai - 600 035.
3. The Executive Engineer
and Administrative Officer,
Tamilnadu Housing Board,
Tirumangalam, Chennai - 600 101.
4. The Assistant Revenue Officer,
Tamil Nadu Housing Board,
Anna Nagar Division,
Thirumangalam, Chennai - 600 101.

...Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for records of the first respondent's proceedings in letter No.27878/HB2-2/2009, dated 09.11.2009 and consequential cancellation of allotment order passed by the second respondent in his proceedings No. AVAP.1/63785/2007, dated 18.11.2009 and consequential eviction notice issued by the fourth respondent in A.Na.Pani 2/5755/2008, dated 17.12.2009 and quash the same and direct the respondents 1 and 2 to continue the allotment of Apartment No.461/6 Tamil Nadu Housing Board Flats, Shanthi Colony, Anna Nagar, Chennai - 600 040, in favour of the petitioner.



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For Petitioner : M/s.M.Muthappan
For Respondent
No.1 : M/s.Tippu Sultan
Government Advocate
For Respondent
Nos.2 to 4 : M/s.R.Bharath Kumar
Standing Counsel

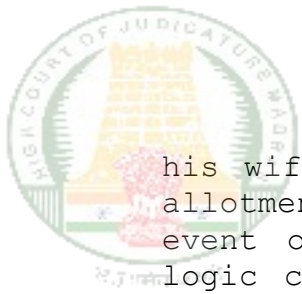
O R D E R

The present Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to call for records of the first respondent's proceedings in letter No.27878/HB2-2/2009, dated 09.11.2009 and consequential cancellation of allotment order passed by the second respondent in his proceedings No. AVAP.1/63785/2007, dated 18.11.2009 and consequential eviction notice issued by the fourth respondent in A.Na.Pani 2/5755/2008, dated 17.12.2009 and quash the same and direct the respondents 1 and 2 to continue the allotment of Apartment No.461/6 Tamil Nadu Housing Board Flats, Shanthi Colony, Anna Nagar, Chennai - 600 040, in favour of the petitioner.

2. The petitioner was allotted with a residential accommodation on 25.05.2000 subject to the certain conditions. Thereafter, in the year 2006, he was transferred from Chennai to Thanjavur.

3. It is relevant to note that his wife is also working as a Nurse at Chennai. Therefore, he requested the Housing Board, the second respondent herein, for transfer of his allotment to his wife, who is also a Government Servant. The second respondent replied that the power of allotment is vested only with the first respondent and therefore, directed the petitioner to make a representation to the first respondent. Accordingly, the petitioner made a representation to the first respondent, which was rejected on 9.11.2009. The said rejection letter in Letter No.27878/HB2-2/2009, dated 09.11.2009 is put to challenge before this Court and also the proceedings No. AVAP.1/63785/2007, dated 18.11.2009, to pay the penal rent and to handover the vacant possession.

4. A reading of the impugned order dated 09.11.2009 reveals that there are provisions to allot a house in favour of spouse, who is in Government Service after retirement of the allottee. In the instant case, the petitioner as well as



his wife are in the same service under the Government. Once an allotment made in favour of a spouse can be transferred in the event of retirement, in favour of the other spouse, the same logic can be applied to the serving personnel in the event of transfer. The Transfer Policy of the Government is to accommodate the spouse, who is in Government Service in the same station as long as possible. When the transfer is made on administrative reasons, the respondents should apply their mind and facilitate the continuance of the allotment in favour of the spouse, who is in Government Service, otherwise, it will cause hardship and dislocation to the Government Servant, which is contrary the Policy of the Government.

5. Therefore, the rejection order that transfer of allotment can be made only in the event of retirement and it cannot be extended for transferred employee is not based on valid or sound reasons. In the opinion of this Court, when one of the spouses transferred and family settled in one particular station, shall not be dislocated on account of the transfer, but, as per the transfer policy of the Government, hardship should be lessened. Therefore, considering the dislocation and the hardship that could have been caused to the petitioner, I find the impugned order is not sustainable and accordingly, the same is set aside. In view of setting aside of the impugned order, the consequential order dated 18.11.2009 is also set aside.

In the result, the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to Government,
Housing & Urban Development Department,
Fort St.George, Chennai - 600 009.



2. The Chairman and Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai, Nandanam, Chennai - 600 035.

3. The Executive Engineer and Administrative Officer,
Tamilnadu Housing Board,
Tirumangalam, Chennai - 600 101.

4. The Assistant Revenue Officer,
Tamil Nadu Housing Board,
Anna Nagar Division, Thirumangalam,
Chennai - 600 101.

+1 CC to Mr.M.Muthappan, advocate sr 23473.

+1 CC to Mr.R. Bharath Kumar, Advocate sr 23690.

+1 CC to The Special Government Pleader sr 23853.

W.P.No.27356 of 2009
and M.P.No.2 of 2009

SKM(CO)
SP(29/04/2022)