



W.P.No.6118 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.6118 of 2023

T.P.Ranganathan

...Petitioner

Vs

1.The Chairman,
Tamil Nadu Housing Board,
Koyambedu, CMDA Complex,
E and C Market Road,
Chennai – 35.

2.The Managing Director,
Tamil Nadu Housing Board,
Koyambedu, CMDA Complex,
E and C Market Road,
Chennai – 35.

3.The Secretary and Personnel Officer,
Tamil Nadu Housing Board,
Koyambedu, CMDA Complex,
E and C Market Road,
Chennai – 35.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order Letter No.PT2/7429/2017 dated 23.12.2022 passed



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by the 3rd respondent to quash the same and consequently direct the respondent to revise the pensionary benefits.

For Petitioner : Mr.T.Dharani

For Respondents : Mr.D.Veerasekaran
Standing Counsel for TNHB

ORDER

With the consent of both the parties, this Writ Petition is taken up for final disposal.

2. The petitioner, while in service, was denied promotion to the post of Junior Engineer, while his junior one E.John Joseph Raj was granted promotion with effect from 31.05.2007. The reasoning assigned for non-inclusion of the petitioner's candidature in the promotion panel is that he was awarded with censure by the respondent Board on 25.08.2006 and since the promotion panel is for the year 2006-2007, his name was not considered. Apparently, the respondents have taken into account the period of one year as a check period as a bar for inclusion of the petitioner's name in the promotion panel.



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3. The validity of such an action came up for consideration before a Hon'ble Full Bench of this Court in the case of ***The Deputy Inspector General of Police, Thanjavur and another Vs. V.Rani*** reported in **2011 (3) CTC 129**, whereby it was held that the promotion cannot be denied by quoting a check period for issuance of censure. The relevant portion of the order reads as follows:

"5) Consequently, the embargo put on the right of Government servant for being considered for promotion for a further period, after the period of minor punishment is over, in the name of check period viz., one year in the case of censure and five years in the case other minor punishments is illegal and impermissible under the statutory rules."

4. Thus, the very basis on which the promotion was deferred to the petitioner and his junior was promoted cannot be sustained, in view of the aforesaid decision of the Hon'ble Full Bench of this Court. Therefore, the petitioner would be entitled for notional promotion to the post of Junior Engineer, with effect from the date on which his immediate junior,



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namely E.John Joseph Raj, was promoted, i.e., with effect from 31.05.2007. Consequently, the petitioner would be entitled for revision of his pensionary benefits also.

5. In the light of the above observations and findings, the impugned order dated 23.12.2022 is quashed. Consequently, there shall be a direction to the respondents herein to forthwith pass orders, revising the petitioner's pensionary benefits by giving notional effect to his promotion from 31.05.2007, the date on which his immediate junior was promoted to the post of Junior Engineer and disburse all the arrears derived out of such revision, within a period of four weeks from the date of receipt of a copy of this order.

6. The Writ Petition stands allowed accordingly. No costs.

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Index: Yes/No

Neutral Citation: Yes/No

Speaking order/Non-speaking order

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M.S.RAMESH,J.

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