



W.P.No.7159 of 2015

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.7159 of 2015

H.S.Srinivasa Rao,
S/o.H.Sripad Rao

... Petitioner

Vs.

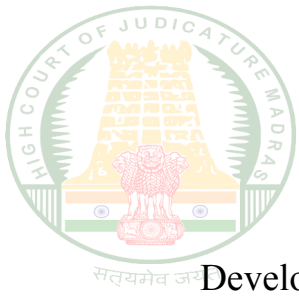
1.Government of Tamil Nadu,
Represented by the Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.

2.Tamil Nadu Housing Board,
Represented by its Managing Director,
Chennai – 600 035.

3.The Deputy Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
for issuance of a Writ of Certiorarified Mandamus, to call for the records
relating to the orders in (1) Pro.No.DC4/42731/2002-1 dated 23.07.2007 of
the Second Respondent (2) G.O.(ID) No.284, Housing and Urban



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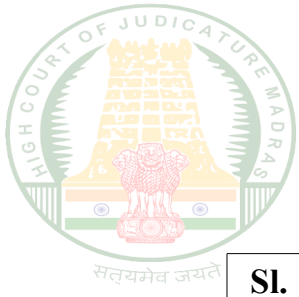
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Development (HB 1 (1)) Department, dated 16.10.2008 of the First Respondent (3) Letter No.20489/HB-1(1) 2012-2 dated 20.02.2013 of the Third Respondent, to quash the same and to issue consequential direction to the Respondents to grant to the Petitioner notional promotion as Executive Engineer and Superintending Engineer with effect from the respective dates of such promotion of his immediate junior and to grant all consequential monetary benefits including revised retirement and pensionary benefits with 12% interest (to be compound annually) on the delayed payment.

For Petitioner	: Mr.M.Ravi
For Respondents	:
For R1	: Mr.E.Vijay Anand Additional Government Pleader
For R2	: Mr.V.Logesh Standing Counsel

ORDER

In this Writ Petition, the petitioner has challenged the following orders passed by the respondents:-



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Sl. No.	Proceedings No./Government Order No./Letter No.	Date of passing of the order	Administrative Head/Officer who passed the order	Department
1	DC4/42731/2002-1	23.07.2007	2 nd respondent	Department of Housing and Urban Development



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Sl. No.	Proceedings No./Government Order No./Letter No.	Date of passing of the order	Administrative Head/Officer who passed the order	Department
2	G.O.(1D) No.284	16.10.2008	1 st respondent	Department of Housing and Urban Development
3	20489/HB1(1)/2012-2	20.02.2013	3 rd respondent	Department of Housing and Urban Development

2. The petitioner was issued a Charge Memo dated 05.07.2003 bearing No.DC-4/42731/2002-1 pursuant to the disciplinary proceedings initiated by the 2nd respondent against the petitioner under Regulation 37(b) of the Tamil Nadu Housing Board Service Regulations, 1969. In the aforesaid Charge Memo, the following charges were levelled against the petitioner:-



ANNEXURE-I

**Statement of charges framed against Thiru.H.S.Srinivasa Rao,
Assistant Engineer, Coimbatore Housing Unit, Tamil Nadu Housing Board :-**

Charge No.1:- That the said Thiru.H.S.Srinivasa Rao, Assistant Engineer, Coimbatore Housing Unit while functioning as Assistant Engineer, Coimbatore Housing Unit during the period from 23-11-1999 to till date has un-authorizedly allowed outsiders to occupy the unsold vacant Government Discretionary Quota allotments of flats/houses of Coimbatore Housing Unit for pecuniary gains as shown below:-

1) Ganapathy Schemes (23 houses)

S.No	Flat / House No.	Meter reading
1	MIG 282	84 Units

2) Kalapatti 66 phase-II

S.No	Flat / House No.	Meter reading
1	B-49	165 units
2	B-71	1152 units
3	B-99	928 units
4	B-77	Occupied
5	B-50	Fencing provided around the building. Compound wall constructed- Occupied

3) Kalapatti Phase-III

S.No	Flat / House No.	Meter reading
1	D-100	56 units
2	D-101	51 units
3	D-102	27 units
4	D-106	61 units
5	D- 96	75 units
6	D-103	198 units
7	D- 99	247 units
8	D- 98	195 units

4) Uppilpalayam Phase-II (45)

S.No	Flat / House No.	Meter reading
1	H-2	1785 units
2	H-6	2814 units
3	M-1	182 units
4	M-3	307 units
5	M-4	259 units



5) Uppilipalayam phase-IV (109)

S.No	Flat / House No.	Meter reading
1	MIG B-26	2136 units
2	MIG B-30	143 units
3	L-41	210 units
4	HIG 13	35 units

6) Uppilipalayam phase-III (60)

S.No	Flat / House No.	Meter reading
1	M-37	290 units
2	M-38	315 units
3	M-39	511 units
4	M-40	370 units
5	M-49	111 units
6	M-50	423 units
7	M-51	332 units
8	M-52	962 units

Charge No.2:- That during the aforesaid period and while functioning in the aforesaid office, the said Thiru.H.S.Srinivasa Rao, Assistant Engineer, Coimbatore Housing Unit has handed over all the keys of above vacant houses to one Thiru.Rengasamy, an outsider for carrying out the illegal activity of letting out the vacant houses for a consideration.

Charge No.3:- That during the aforesaid period and while working in the aforesaid office, the said Thiru. H.S.Srinivasa Rao, Assistant Engineer, Coimbatore Housing Unit by the above action of illegally letting out the Government Discretionary Quota houses for consideration proved himself unworthy of holding a responsible post of Assistant Engineer and shows his unbecoming of an employee of the Board and cheated the office. Thus he violated section 20 of TNHB Officers and Servants Conduct Regulation 1963 and TNHB SR 32(A) of 1969.

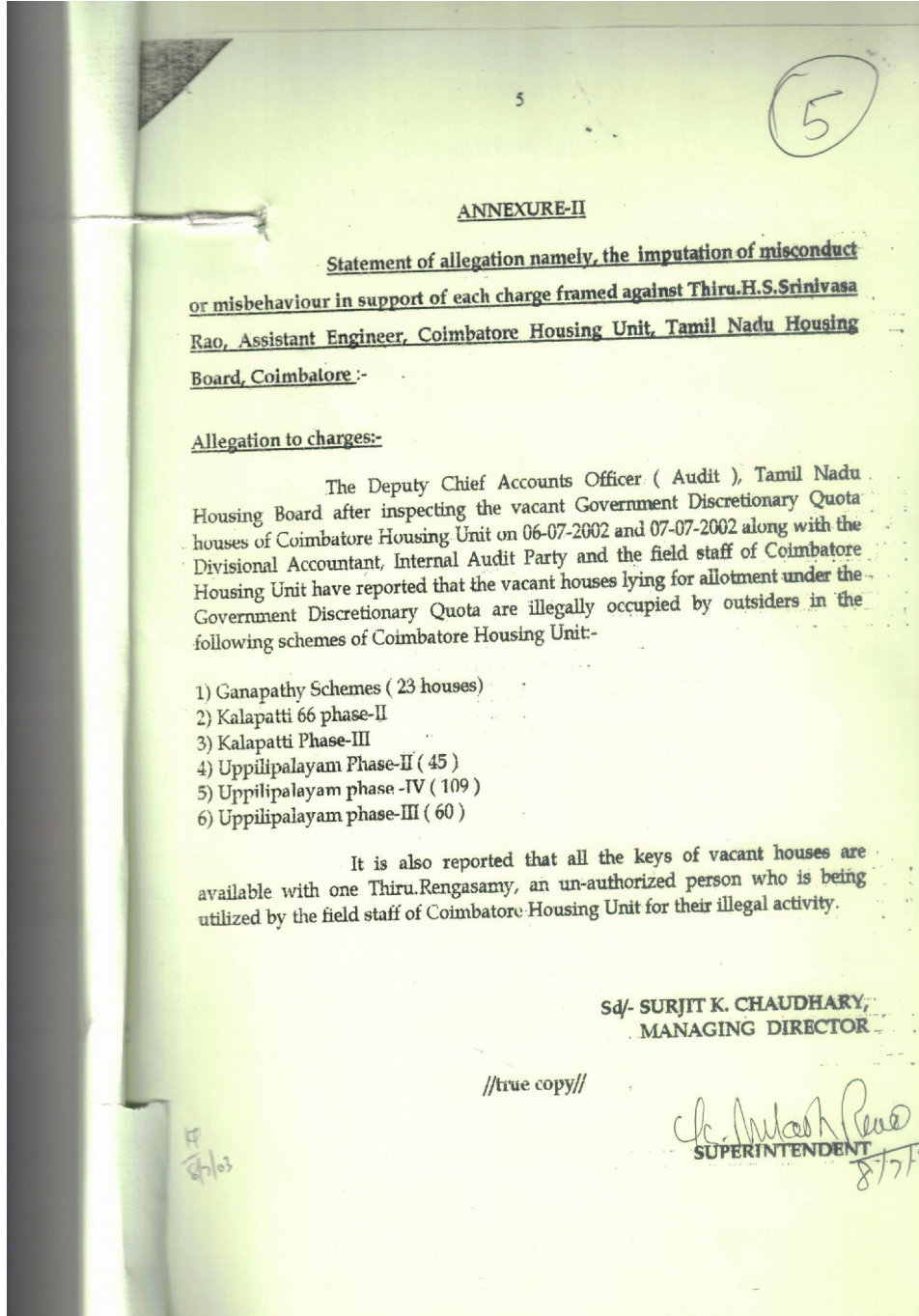
Sd/- SURJIT K. CHAUDHARY,
MANAGING DIRECTOR

//true copy//

[Signature]
SUPERINTENDENT 8/7/15



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3. An Inquiry Officer was appointed by the 2nd respondent vide Order dated 11.06.2004, who has found the petitioner innocent of the charges in the Charge Memo dated 05.07.2003. Consequently, the Inquiry Officer concluded that the charges 1 to 3 in the Charge Memo dated 05.07.2003 cannot be held to be proved beyond doubt, beyond reasonable doubt and beyond doubt respectively. The conclusion of the Inquiry Officer in his Inquiry Report dated 25.09.2004 reads as under:-

“(x) Findings on each article of charge:

From the information available in Item 7, 8 and 9, I furnish my findings on each charge as follows:

Charge 1: The E.B meter reading indicated in the charge were because of the fact that the houses were used as section office, sub-Division office and place for storing the materials. The energy meter was outside the house and to avoid theft, the light was provided and used at night and hence the E.B meter reading. The fencing indicated in the charge was done by the allottee and not by the accused apparently no quantum of financial loss to the Housing Board has been clearly spelt out beyond doubt in the charge. The quantum of pecuniary gain to the accused has also been simply and merely stated in the charge and not specifically spelt out with accurate financial quantum. **Hence, the charge cannot be held as proved beyond doubt.**

Charge 2: Thiru Rangasamy, the outsider stated in the charge was not a Board employee. He was a watchman of the association formed by the allottee of the properties. The Board also does not seem to have provided any security measures for the unsold properties. The question of letting out the vacant houses for a consideration has not been spelt



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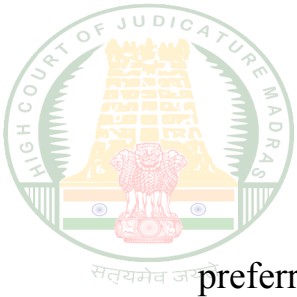
out with accurate amount and no clinching proof for having received any consideration by the accused. **Therefore, this charge cannot be held as proved beyond the reasonable doubt.**

Charge 3: Since the first two charges could not be proved beyond doubt, there is a clear case of benefit of doubt which will clearly go to the accused. **Therefore, this charge also cannot be held as proved beyond doubt."**

4. This being the case, the 2nd respondent issued Show Cause Notice dated 24.05.2005 for the alleged charges in the Charge Memo dated 05.07.2003 disregarding the findings of the Inquiry Officer in the Inquiry Report dated 25.09.2004.

5. The Show Cause Notice dated 24.05.2005 and disciplinary proceedings dated 23.04.2007 bearing No.12.01-6, culminated into the Impugned Final Order dated 23.07.2007 of the 2nd respondent awarding punishment of stoppage of increment without cumulative effect for a period of three years in discharge of the charges framed against the petitioner.

6. Aggrieved by the aforesaid Order dated 23.07.2007, the petitioner



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preferred an appeal before the 1st respondent, Principal Secretary to Government which culminated in a dismissal of the same. Aggrieved by the same, the petitioner preferred a revision before the 3rd respondent, who by the 3rd mentioned Impugned Order dated 20.02.2013 rejected the revision without any discussion.

7. In the Counter Affidavit that has been filed by the 2nd respondent which has been affirmed by the 1st respondent, the respondents have justified the Impugned Orders passed by the respective respondents.

8. In the background of the entire disciplinary proceedings pursuant to Charge Memo dated 05.07.2003 issued by the 2nd respondent is the Audit Report / Audit Objection dated 06.07.2002, 07.07.2002 and 08.07.2002 raised by the Deputy Chief Accounts Officer on account of the purported loss suffered by the 2nd respondent Tamil Nadu Housing Board.

9. The Inquiry Officer, who inquired the charges has not found the



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petitioner guilty of any of the charges levelled in Charge Memo dated 05.07.2003.

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10. A reading of the aforesaid Impugned Order dated 23.07.2007 of the 2nd respondent indicates that there is no application of mind barring reproduction of the charges and the reply. Unless there are compelling reasons for disagreeing the findings of the Inquiry Officer, the disciplinary authority cannot deviate from the findings of the Inquiry Officer. That apart, proper Show Cause Notice and opportunity of hearing ought to have been issued to the petitioner before proceeding further.

11. In this case, no such proper procedure has been adopted by the respondents. Therefore, there was no justification for passing the Punishment Order dated 23.07.2007 passed by the 2nd respondent Tamil Nadu Housing Board, awarding punishment of stoppage of increment without cumulative effect for the period of 3 years in discharge of all the charges framed against the petitioner in the Charge Memo dated 05.07.2003.



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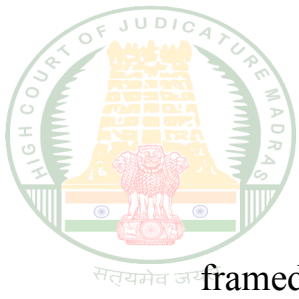
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12. Consequently, the rejection of the appeal by the 1st respondent vide Impugned Order dated 16.10.2008 and further revision by the 3rd respondent vide Impugned Order dated 20.02.2013 are also unsustainable.

13. In the light of the above conclusion, this Writ Petition has to be allowed and is accordingly allowed.

14. The respondents are therefore directed to pay the arrears of the amount which was withheld / recovered by them pursuant to Impugned Order dated 23.07.2007 of the 2nd respondent together with interest and other terminal benefits, if any, within a period of 2 months from the date of receipt of a copy of this order.

15. Since the petitioner has also been denied the benefit of promotion in view of the criminal charges framed against the petitioner vide Charge Memo dated 05.07.2003 and the consequential punishment order of the 2nd respondent dated 23.07.2007 which stands quashed today, the respondents are directed to promote the petitioner notionally, if the petitioner was otherwise entitled to be promoted, if no charges been



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framed against the petitioner at that point of time.

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16. The entire exercise shall be completed by the respondents within a period of 4 months from the date of receipt of a copy of this order.

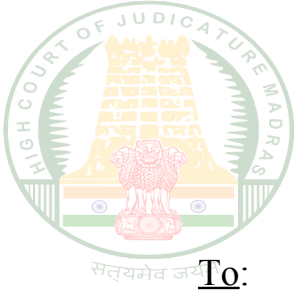
17. This Writ Petition is disposed of with the above observations.

No costs.

27.02.2025

Neutral Citation : Yes / No

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To:

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- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.
- 2.The Managing Director,
Tamil Nadu Housing Board,
Chennai – 600 035.
- 3.The Deputy Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai – 600 009.

C.SARAVANAN, J.

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