



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 26.06.2025**

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**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

**W.P.No.32127 of 2014**

**and**

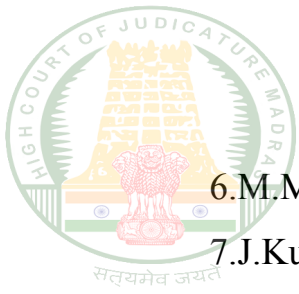
**M.P.Nos.1 & 2 of 2014**

C.Arumugam

... Petitioner

Vs.

- 1.The Government of Tamil Nadu  
Rep. by its Secretary to Government  
Housing and Urban Development Department  
Fort St.George, Chennai -1.
- 2.The Managing Director  
Tamil Nadu Housing Board  
493, Anna Salai, Nandanam  
Chennai – 600 035.
- 3.The Administrative Officer  
Tamil Nadu Housing Board  
493, Anna Salai, Nandanam  
Chennai – 600 035.
- 4.The Secretary and Personnel Officer  
The Tamil Nadu Housing Board  
493, Anna Salai, Nandanam  
Chennai 600 035.
- 5.M.Gopal



6.M.Murugaiyan

7.J.Kumar

8.S.Latha

9.P.Elumalai

10.R.Sekar

11.E.Shanmugam

12.M.Dawood Sheriff

13.S.Selvakumari

14.E.A.Sakthivel

15.G.Panneerdoss

16.V.Selvamani

17.R.Niraimathi

18.S.Sridhar

19.S.Sugunavathi

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of mandamus directing the respondent 21 to 4 to promote the petitioner as Manager (Marketing & Service) with effect from 12.09.2013 with seniority, arrears and all other consequential benefits.

For Petitioner : Ms.R.Shruthi for  
Ms.S.Meenakshi

For R1 : Mr.A.M.Ayyadurai  
Government Advocate

For R2 to R4 : Mr.V.Logesh.



## **ORDER**

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This writ petition has been filed seeking writ of mandamus directing the respondents 1 to 4 to promote the petitioner as Manager (Marketing & Service) with effect from 12.09.2013, i.e., the date on which the juniors of the petitioner were alleged to have been promoted to the post of Manager (Marketing & Service).

2. The brief facts that are relevant for disposal of this writ petition are as under:

2.1. The petitioner herein, while working as Assistant Revenue Officer at Salem, he was subjected to disciplinary proceedings by issuing a charge memo dated 22.09.2012 and thereafter, the said disciplinary proceedings ended in imposing the punishment of warning together with imposition of fine of Rs.1,000/- by an order dated 20.08.2013. It was at that stage, the juniors of the petitioner were considered for promotion to the post of Manager while ignoring the case of the petitioner and they were accordingly promoted to the post of Manager through proceedings dated 12.09.2013. In view of the same, the petitioner, having submitted representations from time to time and having failed to get any proper response from the respondent Nos.1 to 4, approached this Court by filing the present

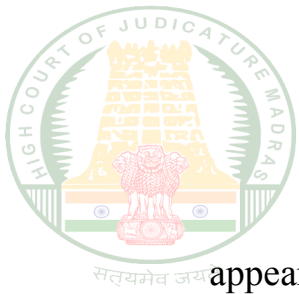


writ petition.

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3. In response to the notice issued by this Court, the 2<sup>nd</sup> respondent filed counter affidavit contending that by virtue of the punishment suffered by the petitioner under an order dated 20.08.2013, the petitioner is not entitled for promotion during the currency of the said punishment and his case also cannot be considered for promotion for a period of five years as the same operate as 'check period'. It is also further brought to the notice of this Court that, subsequent to the expiry of the said period, the case of the petitioner was considered for promotion and accordingly, he was promoted to the post of Manager (Marketing & Service) through proceedings No.PNT.4/16856/2015-1, dated 23.01.2017 and thereafter, the petitioner retired from service on 31.07.2019.

4. In the light of the above noted specific stand of the respondents in counter affidavit, the only issue that fallen for consideration is whether the respondents are justified in denying the benefit of promotion to the petitioner on the ground of currency of punishment and also on the ground of 'check period' for a period of five years or not?



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5. As rightly pointed out by Ms.R.Shruthi, learned counsel appearing for the petitioner, the very same issue has fallen for consideration before several Division Benches of this Court and in the light of the conflict between the two Division Benches, the very same issue stood referred to a Full Bench of this Court for resolution and accordingly, the Full Bench of this Court, by an order dated 27.04.2011, in the case of **Deputy Inspector General of Police, Thanjavur Range, Thanjavur and Vs V.Rani** reported in **2011 (3) CTC 129**, held as under:

*“28. Therefore, after analysis of the entire law on the subject, we answer the reference as follows:*

*(1) During the period of currency of minor punishment, an employee cannot claim as a matter of right to be promoted to the next category merely on the basis that he is otherwise fit for promotion and to that extent, the finding of the Division Bench in **Subramanian v. Government of Tamil Nadu, rep by its Secretary, Chennai and others**, 2008(5) MLJ 350, stands overruled. It is needless to state that after the currency of punishment period, the Government servant is entitled to be considered for promotion to the next post, if otherwise eligible.*

*(2) If any benefit has been conferred on the party to the judgment rendered by the Division Bench in **Subramanian v. Government of Tamil Nadu, rep. by its Secretary, Chennai and others**, 2008 (5) MLJ 350, the same shall not be affected by the judgment of this Bench since there is a factual finding in that case that there was a technical lapse committed by the delinquent and no financial loss caused.*



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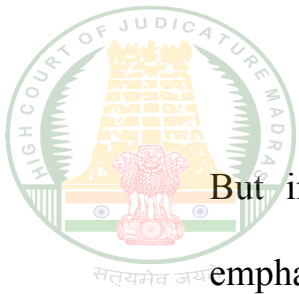


(3) *The detailed instructions issued by the Government in G.O.Ms.No.368, Personnel and Administrative Reforms Department, dated 18.10.1993 issued by the Chief Secretary to Government by order of the Governor, cannot be equated to the Statutory Rules framed under the proviso to Article 309 of the Constitution of India and it can utmost be Administrative Instructions issued under Article 162 of the Constitution of India. In any event, the said Government Order does not deal with the case of promotion of a Government servant during the currency of punishment.*

(4) *The Government Letter No.18842/S/2005-2, Personnel and Administrative Reforms (S) Department, dated 7.10.2005 with annexures 1 to 7 and the letter No.248 (P&AR) Department, dated 20.10.1997 are not Statutory Rules framed under Proviso Article 309 of the Constitution of India and cannot be read either with the Tamil Nadu Government Servants Conduct Rules, 1973 or under the Tamil Nadu Civil Service (Disciplinary and Appeal) Rules.*

(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."*

6. In the light of the above, the petitioner who suffered punishment of warning together with a fine of Rs.1,000/- cannot claim promotion as a matter of right to the next higher category merely on the basis that he is otherwise fit for promotion. However, the same is applicable only for a period of one year which is to be treated as period of currency of punishment.



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But insofar as the 'check period' is concerned, the learned Full Bench emphatically held that the embargo put on the right of the 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 of other minor punishments is illegal and impermissible.

7. In the light of the categorical pronouncement of the learned Full Bench of this Court, the stand of the respondents in denying the benefit of promotion to the petitioner after expiry of currency of punishment imposed through order dated 20.08.2013 cannot be sustained and such a stand is liable to be declared as arbitrary, illegal and contrary to the law laid down by this Court.

8. In the light of the above, the right of the petitioner who claim promotion on par with his juniors after the currency of punishment was over cannot be denied. No doubt, the petitioner was promoted to the post of Manager during the year 2017, as already noted above. But, his entitlement shall be with reference to his juniors who were promoted to the post of Manager after the currency of punishment imposed on him was over.



Admittedly, the currency of punishment imposed through order dated 20.08.2013 lapsed on 19.08.2014. Therefore, the petitioner became eligible for promotion to the post of Manager with effect from 20.08.2014.

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9. From the perusal of the material on record, it is noticed that some of the juniors of the petitioner were promoted to the post of Manager through proceedings No.PNT.4/17309/2014, dated 24.11.2014. If the respondents had applied the law laid down by the Full Bench of this Court as noted above, they would have considered the case of the petitioner for promotion to the post of Manager along with the persons who were granted the benefit of promotion through proceedings dated 24.11.2014. It is not in dispute that the persons who are beneficiaries of the said proceedings dated 24.11.2014 are juniors to the petitioner in the cadre of Section Officer/Assistant Revenue Officer. In the light of the above, the petitioner's entitlement for promotion to the post of Manager with effect from 24.11.2014 cannot be denied.

10. In the light of the above, the writ petition is allowed directing the respondent Nos.2 to 4 to notionally promote the petitioner with effect from 24.11.2014 on par with the immediate juniors of the petitioner covered by proceedings dated 24.11.2014 instead of 23.01.2017 with all consequential



benefits including fixation of pay together with monetary benefits as expeditiously as possible at any rate within a period of eight (8) weeks from the date of receipt of a copy of this order.

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11. Accordingly, this writ petition is allowed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

**26.06.2025**

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

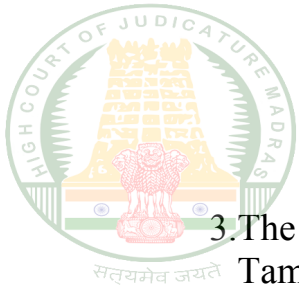
**MUMMINENI SUDHEER KUMAR, J.**

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