



W.P.(MD).No.13787 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 31.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.13787 of 2018

and

W.M.P(MD) No.864 of 2024

B.Ramasubbu
Assistant Engineer (Rtd),
S/o. Bodu Reddy,
Kantharvakottai Panchayat Union,
Pudukottai District.

... Petitioner

Vs.

1. The Principal Secretary to Government,
Rural Development and Panchayat Raj
Department,
Secretariat, Chennai – 09.

2. The Director,
Rural Development and Panchayat Raj
Department,
Chennai – 09.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the second respondent in Proc.No.18442/2009/EE1.2, dated 10.05.2018 and quash the same and consequently direct the respondents to promote the petitioner notionally as



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Assistant Engineer by including in the panel for the year 1999 – 2000 retrospectively and promote him to the post of Assistant Executive Engineer by including him in the promotion panel for the year 2009 – 2010 retrospectively with all consequential and monetary benefits.

For Petitioner : Mr.T.Antony Arul Raj

For Respondents : Mr.S.R.A.Ramachandran
Additional Government Pleader

ORDER

The present Writ Petition has been filed by a retired Assistant Engineer in the Rural Development Department, challenging the order passed by the second respondent herein on 10.05.2018, wherein his request for inclusion of his name in the panel for promotion to the post of Assistant Engineer for the year 1999 – 2000 has been rejected.

2. The petitioner was initially appointed as Assistant Draughtsman on 22.12.1980 and he was promoted as a Draughtsman on 26.06.1981. His probation was declared on 22.12.1982.



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for the year 1999 – 2000, due to the pendency of the charge memo. When the punishment imposed in the charge memo has been set aside by the Court, it should be presumed that, no charge was pending as against the writ petitioner on the date when the panel was prepared for the year 1999- 2000. In such a view of the matter, the petitioner is eligible for inclusion of his name in the panel for the post of Assistant Engineer for the year 1999 – 2000.

5. The petitioner was issued with another charge memo under Rule 17-A of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, dated 13.09.2003 and punishment of stoppage of increment for a period of six months without cumulative effect was issued on 20.02.2004. A panel was prepared for the post of Assistant Executive Engineer for the year 2009 – 2010. Though the petitioner has completed the punishment period on 20.08.2004, his name was not included in the panel due to the check period of five years from the date of completion of punishment.

6. According to the learned counsel appearing for the writ petitioner, the check period has been held to be illegal by the Hon'ble Full Bench of this Court in the decision reported in **2011 (3) CTC 129 (The Deputy Inspector**



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General of Police, Thanjavur Range and another Vs.V.Rani). Therefore, he prays that his name should have been included in the panel for promotion to the post of Assistant Executive Engineer for the year 2009 – 2010 also.

7. Per contra, the learned Additional Government Pleader appearing for the respondents herein submitted that when the panel was prepared to the post of Assistant Engineer for the year 1999 – 2000, 17 -B charges were issued against him and therefore, the name of the petitioner was rightly overlooked for the said panel. Even though, the punishment imposed upon the petitioner was set aside by the High Court, the petitioner would be entitled to get promotion only from the date of writ court order and cannot be restored to the original position of the year 1999 – 2000. According to him, rightly the petitioner was granted promotion to the post of Assistant Engineer on 26.02.2010.

8. The learned Additional Government Pleader further submitted that when the panel for the post of Assistant Executive Engineer for the year 2009-2010 was prepared, though the punishment of stoppage of increment has expired, yet the five year checkup period has not expired and therefore,



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his name was not considered for the above said panel. Hence, he prayed for sustaining the order passed by the authority.

9. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

10. As rightly pointed out earlier, as far as the request of the petitioner for considering his name for inclusion in the panel for the post of Assistant Engineer for the year 1999-2000, the punishment imposed upon the petitioner has been set aside by the High Court in W.P.No.7448 of 2007 dated 01.09.2009. In such an event, it should be presumed that no charges were pending as against him on the date when panel was prepared. Therefore, the petitioner would be entitled for inclusion of his name in the panel for the post of Assistant Engineer for the year 1999 – 2000 on par with his juniors.

11. As far as the request of the petitioner for inclusion of his name in the panel for the post of Assistant Executive Engineer is concerned, the punishment of stoppage of increment for the period of six months without cumulative effect was imposed upon the petitioner on 20.02.2004. The same



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had expired on 20.08.2004. The crucial date for inclusion of the name of the petitioner for the panel for the year 2009 – 2010 is 01.04.2009. Only due to the check period, the name of the petitioner could not be included in the said panel.

12. The judgment of the Hon'ble Full Bench of this Court reported in **2011 (3) CTC 129 (The Deputy Inspector General of Police, Thanjavur Range and another Vs. V.Rani)** paragraph No.28 (5) is held as follows:-

..... 28(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.

13. In view of the judgment of the Hon'ble Full Bench of this Court, it is clear that when the check period has been held to be invalid, the petitioner becomes eligible for consideration for further promotion with effect from 21.08.2004 onwards. In such circumstances, the request of the petitioner for inclusion of his name in the panel for the year 2009 – 2010 is also justified.



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14. In view of the above said deliberations, the order impugned in the Writ Petition is set aside and the respondents are directed to notionally promote the petitioner as an Assistant Engineer by including his name in the panel for the year 1999 – 2000 and include his name in promotional panel for the post of Assistant Executive Engineer for the year 2009-2010 and issue promotion orders. It is made clear that the petitioner would not be entitled for any back wages for the above said period except considering the notional promotion for the purpose of fixation of pensionary benefits and the arrears of pension shall be disbursed. The said exercise shall be completed within a period of six months from the date of receipt of a copy of this order.

15. With the above said observation, this Writ Petitions stands allowed to the extent as stated above. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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Rural Development and Panchayat Raj
Department,
Secretariat, Chennai – 09.
2. The Director,
Rural Development and Panchayat Raj
Department,
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R.VIJAYAKUMAR,J.

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