

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 9.2.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.No.31472 of 2012

- 1 K.JAYAKUMAR
S/O.R.KRISHNAMOORTHY STATION FIRE OFFICER
TAMILNADU FIRE & RESCUE SERVICES B-7
OFFICER QUARTERS TANK BUND ROAD
NUNGAMBAKKAM CHENNAI.... petitioner
- Vs
- 1 THE SECRETARY
HOME-DEPARTMENT SECRETARIAT CHENNAI-9.
- 2 THE DIRECTOR OF FIRE AND
RESCUE SERVICES EGMORE CHENNAI-8.
- 3 THE DIRECTOR OF FIRE RESCUE
SERVICE & DIRECTOR STATE TRAINING CENTRE
(FULL ADDL. CHARGES) STATE TRAINING CENTRE
TAMILNADU FIRE & RESCUE SERVICES DEPT.
TAMBARAM CHENNAI-47.
- 4 V.MATHURPANDIAN
THE DY. DIRECTOR OF FIRE RESCUE SERVICE &
DIRECTOR STATE TRAINING CENTRE (FULL ADDL.
CHARGES) STATE TRAINING CENTRE TAMBARAM
CHENNAI-47.
- 5 PRIYA RAVICHANDIRAN
DIVISIONAL FIRE OFFICER DEPUTY DIRECTOR
(TRAINING) TAMILNADU FIRE AND RESCUE
SERVICES TAMBARAM CHENNAI-47.
- 6 PARTHIBAN
DIVISIONAL FIRE OFFICER AND TELLER ENGINEER
TAMILNAD FIRE AND RESCUE SERVICES DEPARTMENT
TAMBARAM CHENNAI-47. ... respondents

Writ Petition filed under Art.226 of the Constitution of India
praying for a Writ of Certiorarified Mandamus Calling for the
records on the file of the 3rd respondent in No.1277/B/07 dated
23.06.2007 which is confirmed by 1st respondent in

Na.Ka.No.2168/B5/2011 dated 30.03.2011 and consequential order on the file of the 2nd respondent in Na.Ka.No.7810/B5/2011 dated 11.07.2011 and to quash the same and consequently direct the respondents to reinstate the petitioner.

For petitioner Mr.R.Karthikeyan

For respondents 1 to Mr.M.S.Ramesh, A.G.P.
3

For 4th respondent Ms.M.Kamalini

For 5th respondent Ms.K.Vasanthamala

ORDER

This Writ Petition is directed against the order dated 11 July 2011, whereby and whereunder, the first respondent rejected the appeal on the ground that the statutory appeal has already been rejected by order dated 24 June 2011 and as such, there is no need to pass a fresh order on merits.

2. The second respondent initiated disciplinary proceedings against the petitioner. The Disciplinary Authority passed an order dated 25 February 2005, imposing punishment of stoppage of increment for one year with cumulative effect. The petitioner filed an appeal against the said order. The petitioner thereafter filed a Writ Petition before this Court in W.P.No.232 of 2007 on the ground that the appeal is still pending. This Court directed the first respondent to decide the appeal on merits. The first respondent pursuant to the said order, considered the issue once again and rejected the claim on the ground that the appeal has already been disposed of. The said order is under challenge in this Writ Petition.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

4. The factual matrix very clearly shows that the appeal filed by the petitioner was rejected as early as on 12 March 2008 by the Disciplinary Authority. The petitioner, without disclosing the factum of dismissal of the appeal, filed W.P.No.232 of 2007, challenging the order dated 23 June 2007, on the file of the Deputy Director of Fire and Rescue Services. This Court was in darkness with regard to the order passed by the Appellate Authority. This made this Court to issue a direction to the Appellate Authority to dispose of the appeal filed by the petitioner against the order dated 23 June 2007. The Appellate Authority, having found that he has already rejected the appeal, passed an fresh order indicating the said fact. The petitioner now wanted to take advantage of the order passed by this Court in W.P.No.232 of 2007. It is not the case of the petitioner that the order dated 12 March 2008 rejecting his appeal was not

served on him. The petitioner himself has produced the order dated 12 March 2008. It is therefore clear that even before this Court directed the Appellate Authority to consider the appeal, the 2nd respondent has already rejected the appeal. Such being the position, the petitioner was not correct in filing a Writ Petition for a fresh direction to consider the appeal on merits. The 2nd respondent is therefore perfectly correct in rejecting the request to consider the appeal once again. The petitioner had suppressed the factum of disposal of the appeal earlier, and the same had resulted in issuing a fresh direction to the 2nd respondent to consider the appeal on merits. I am therefore of the view that there is absolutely no merits in the contention taken by the petitioner.

5. In the upshot, I dismiss the Writ Petition. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1 THE SECRETARY
HOME-DEPARTMENT SECRETARIAT CHENNAI-9.
- 2 THE DIRECTOR OF FIRE AND
RESCUE SERVICES EGMORE CHENNAI-8.
- 3 THE DIRECTOR OF FIRE RESCUE
SERVICE & DIRECTOR STATE TRAINING CENTRE
(FULL ADDL. CHARGES) STATE TRAINING CENTRE
TAMILNADU FIRE & RESCUE SERVICES DEPT.
TAMBARAM CHENNAI-47.

- 1 cc to Ms.M,Kamalini ,Advocate, SR.No.6798
1 cc to Mr.R.Karthikeyan ,Advocate, SR.No.6858
1 cc to Government Pleader,Sr.No. 6970
1 cc to Mr.U.M.Ravichandran ,Advocate, SR.No.7082

W.P.No.31472 of 2012

sr(co)
pmk.13.3.2015