

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5.9.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.901 of 2017,
C.M.P.No.12592 of 2017

1. The Director,
Fire Service and Rescue Operation Department,
No.17, Rukmani Lakshmipathy Road,
Egmore, Chennai 600 008.
2. The Member Secretary,
Tamilnadu Uniformed Services Recruitment Board,
No.807, P.T.Chengalvaraya Naicker Maligai,
Anna Salai, Chennai 600 002.
3. The Divisional Officer,
Fire and Rescue Operation Department,
Cuddalore Division, Villupuram.

... Appellants

Versus

K.Sathyaprakash

... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 9.2.2017 passed in W.P.No.19558 of 2013 on the file of this court.

W.P.No.19558 of 2013:-Writ Petition filed under Article 226 of the constitution of India praying for issuance of a Writ of certiorarified Mandamus, to call for the records relating to the order dated 17.05.2013 made in Na.Ka.No.20091/AA1/2012 passed by the first respondent and to quash the same and consequently direct the first respondent to appoint the petitioner for the post of Fireman-2012.

For appellants : Mr.R.Prathapkumar,
Additional Government Pleader

For Respondent : Mr.S.Ayyathurai

JUDGMENT

(Judgment of the court was made by RMT.TEEKAA RAMAN, J.)

Challenging the correctness of the order passed by the learned Single Judge in W.P.No.19558 of 2013, whereby the learned Single Judge has quashed the impugned order and directed the first appellant herein to consider the petitioner's appointment to the post of Grade II Police Constable/Grade II Jail Warders/Fireman, the present writ appeal has been filed.

2. The learned Additional Government Pleader would submit that the petitioner was not considered for the appointment due to the adverse remarks(report) given by the local police that he was involved in a criminal proceedings arising out of abetment of suicide of a girl, with whom he had affairs, by giving false promise, but, later refused to marry her, which resulted in her committing suicide and a case in that regard was filed under section 309 IPC originally, which was subsequently altered into one of section 306 IPC.

3. However, it appears that, before filing of the final charge sheet, the case under section 309 IPC is closed on the ground of limitation by the learned Judicial Magistrate. It is also brought to the notice of this court that subsequently, the case was also re-opened. Whiles, when the writ petitioner was considered for appointment, police records have been called for, wherein an adverse entry has been found, however, column No.21 of the application form of the writ petitioner, does not disclose about the pendency of the criminal proceedings and hence, the impugned order came into force declining to give posting to the writ petitioner and challenging the said order, the writ petition was filed.

4. It appears that the subsequent developments were not brought to the notice of the learned Single Judge. We have had the benefit of perusing the CD file in Crime No.38 of 2012 on the file of the Anumanthapuram Police Station produced by the learned Additional Government Pleader for our perusal and considering certain incriminating materials brought to our notice, which we are not addressing here as it may likely to prejudice the trial in the Sessions Case.

5. Considering the facts and circumstances of the case, we are of the view that the order of the learned Single Judge needs to be modified accordingly, it is modified to the limited extent that the first appellant herein is directed to consider the writ petitioner's appointment to the post of Grade II Police Constable/Grade II Jail Warders/Fireman, afresh, taking into

consideration the entirety of the circumstances now placed by the police and also the fact that protest petition has been filed by the grandmother of the victim girl in Crime No.38 of 2012, within a period of eight weeks from the date of receipt of a copy of this judgment. The writ appeal is allowed in part to the extent indicated above. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Director,
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+1cc to M/S.V.Vadivel, Advocate Sr. 63868
+1cc to the Government Pleader Sr. 64895

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CP(CO)
VR(26/10/2017)