

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 19558 of 2013
and MP No.2 of 2013

K.Sathyaprakash

.. Petitioner

Vs.

1.The District,
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 Service and Rescue Operation Department,
Cuddalore Division,
Villupuram.

.. Respondents

PRAYER: 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 Petitioner : Mr.S.Ayyadurai

For RR 1 to 3 : Mr.S.Diwakar

Special Govt. Pleader

ORDER

Challenging the writ petition to quash the order order passed by the 1st Respondent in Na.Ka.No.20091/AA1/2012 dated 17.05.2013 and to direct the 1st Respondent to appoint the petitioner for the post of fireman - 2012.

2. Heard Mr.S.Ayyadurai, learned counsel appearing for the petitioner and Mr.S.Diwakar, learned Special Government Pleader appearing on behalf of the respondents.

3. The learned counsel for the petitioner submits that the petitioner applied for the post of common recruitment of Grade II Police Constable/Grade II Jail Warders/Fireman 2012, by a Notification in the year 2012. Based on the certificate, the physical test was conducted on 23.03.2012 by the 2nd respondent. Again, on 24.06.2012, petitioner wrote the written examination, and he attended the Medical test on 03.12.2012. The petitioner has passed the physical test and the written examination and subsequently, he has passed the Medical Test. But the 3rd respondent has passed the impugned order against the petitioner stating that there was an adverse remarks in police enquiry. Therefore, the petitioner was not selected for the aforesaid post. The learned counsel for the petitioner would further submit that the petitioner filed an affidavit before this Court dated 02.09.2016, contending that he came to know that a case has been registered against him the FIR in Crime No.38 of 2012 dated 22.02.2012, in respect of suicidal death of one Girija only subsequently and the said case has been closed by the learned Judicial Magistrate II, Villupuram on 12.04.2014, and the petitioner had obtained the certified copy of the said order. Therefore, the petitioner made a representation to the 1st respondent dated 24.02.2016, by enclosing the said order of closure.

4. Per Contra, the learned Special Government Pleader would submit that it is not dispute about the closure of the FIR against the petitioner. In the light of the subsequent development it is seen that the petitioner also made a representation to the 1st respondent seeking for appointment to the post of Grade II Police Constable/Grade II Jail Warders/Fireman 2012.

5. Taking into consideration, the subsequent development namely closure of the FIR in Crime No. 38 of 2012 dated 22.02.2012 as against the petitioner, there is no legal implement on the part of the 1st respondent to consider the petitioner's request for appointment to the post of Grade II Police Constable/Grade II Jail Warders/Fireman 2012.

6. Considering the facts and circumstances of the case, I have no hesitation to interfere with the order passed by the 1st respondent. Accordingly, this court passed the following order:

(1) The impugned order passed by the 1st respondent in Na.Ka.No.20091/AA1/2012 dated 17.05.2013 is hereby quashed.

(2) The first respondent is directed to consider the petitioner's appointment to the post of Grade II Police Constable/Grade II Jail Warders/Fireman

2012, if he is otherwise eligible, within a period of 12 weeks from the date of receipt of a copy of this order.

7. The Writ Petition is allowed with the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The District,
Fire Service and Rescue Operation Department
No.17, Rukmani Lakshmipathy Road,
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- 2.The Member Secretary,
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- 3.The Divisional Officer,
Fire Service and Rescue Operation Department,
Cuddalore Division,
Villupuram.

+1cc to D. Ayyathurai Advocate SR.NO. 8289

+1cc to Government Pleader SR.NO. 8944

AD(CO)
VR(24/02/2017)

सत्यमेव जयते W.P. No. 19558 of 2013

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