

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2018

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.17467 of 2011

S. Bakkianathan

...Petitioner

-Vs-

1.The State of Tamil Nadu,
Rep. by Secretary to Government,
Home Department,
Fort St. George, Chennai 600 009.

2.The Director,
Fire and Rescue Service,
Egmore, Chennai - 600 008.

3.The Divisional Officer,
Fire and Rescue Service,
Egmore, Chennai - 600 008.

4. B. Balakrishnan, FM. 2061

5. S. Sridhar, LF, 2079,

6. A. Mohamed Iqbal FM 2125,

7. K. Mani L.F. 1981,

8. S. Jesu Raj FM 1941, सत्यमेव जयते

9. R. Gopalan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the third respondent in O.Mu.No.5870/A1-2011 dated 27.06.2011 and direct the respondents 2 and 3 to include the petitioner's name in the seniority list of fireman who are eligible for promotion as leading fireman above the respondents 4 to 9 and immediately below T. Arumugam in the appropriate place.

For Petitioner : Mr.L. Chandra Kumar for

Mr.A.Sundaravadanan

For Respondents-1to3 : Mr.A. Zakir Hussain
(Govt. Advocate)

For Respondents4 to 9 : No Appearance

O R D E R

The writ petition has been filed issue a Writ of Certiorari Mandamus calling for the records relating to the proceedings of the third respondent in O.Mu.No.5870/A1-2011 dated 27.06.2011 and direct the respondents 2 and 3 to include the petitioner's name in the seniority list of fireman who are eligible for promotion as leading fireman above the respondents 4 to 9 and immediately below T. Arumugam in the appropriate place.

2. According to the petitioner, the third respondent by proceeding dated 14.02.1991 appointed the petitioner along with 51 others as fireman through employment exchange and the petitioner joined the service as fireman on 15.02.1991. Subsequently, in the wake of promotion to the the leading Fireman, the petitioner came to know that the petitioner's name has been listed after the name of respondents 4 to 9 in the panel of seniority list even though they are junior than the petitioner as per the list of registration of employment exchange. Therefore, the petitioner made a representation on 22.06.2011 to the third respondent seeking to revise the seniority list on the basis of the seniority assigned in the Employment Exchange Office. The third respondent by proceeding dated 27.06.2011 has rejected the representation made by the petitioner. Challenging the aforesaid impugned order dated 27.06.2011 passed by the third respondent, the petitioner has filed the writ petition.

3. Per contra, the Government pleader, appearing for the third respondent has filed detailed counter affidavit. In the aforesaid counter affidavit, the third respondent submitted that the seniority list was prepared from the year 1988 to 1991 by the second respondent vide letter bearing No.9546/B1/2007 dated 11.06.2008. Subsequently, the seniority list was displayed on the notice board. It is further stated in the Counter affidavit that as per Rule 2 of the Tamil Nadu Fire Sub-ordinate Service Rules, merit and ability are the basis criteria for promotion to the category of leading Fireman. Therefore, the Test will be conducted among the candidates sponsored by the District

Employment Officer. Thereafter, the seniority list has been approved by the second respondent on the basis of the marks obtained by the candidates in the test. Taking into consideration the marks in the test, the petitioner's name was included in the "C" list for the year 2011-2012 at S.No.10. as approved by the Second respondent according to the Rules adopted by this department. The list of marks obtained by the petitioner and others as follows:

SL.N O	NAME AND DESIGNATION	MARKS
1	K. Sekar FM 730	20 ^{1/2}
2.	K. Arjunan LF 1233 39(a) (1)	20 ^{1/4}
3.	A. Shanmugam LF 1225 39 (a) (1)	20
4.	K. Shanmugam LF 1033 39 (a) (1)	19 ^{1/2}
5.	K. Arumugam LF 1047 39 (a) (1)	19
6.	S.S. Sridhar LF 2079 39 (a) (1)	19
7.	K. Mani LF 1981 39(a) (1)	18 ^{1/2}
8.	S. Jesuraj FM 1941	18
9.	R. Gopalan FM 1949	17 ^{3/4}
10.	S. Bakkianathan FM 2039	17 ^{1/2}

As per the aforesaid marks grade, the petitioner has placed in the serial no.10. as he has obtained 17^{1/2} marks in the test. In view of the aforesaid reason, the petitioner has not been selected for the promotion to the post of Leading Fireman and according to marks list, the seniority panel has been prepared by the second respondent as per rules of Reservation existing at that time. Accordingly, the respondents 4 to 9 have been selected for the promotion to the post of leading Fireman.

4. Having considered the above said reasons and recording the statement of the Counter affidavit filed on the side of third respondent, there is no substance in arguments advanced by the learned counsel for the petitioner. Therefore, there is no illegality in the impugned order passed by the third respondent.

5. In view of the above, the writ petition stands dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

lbm

To:

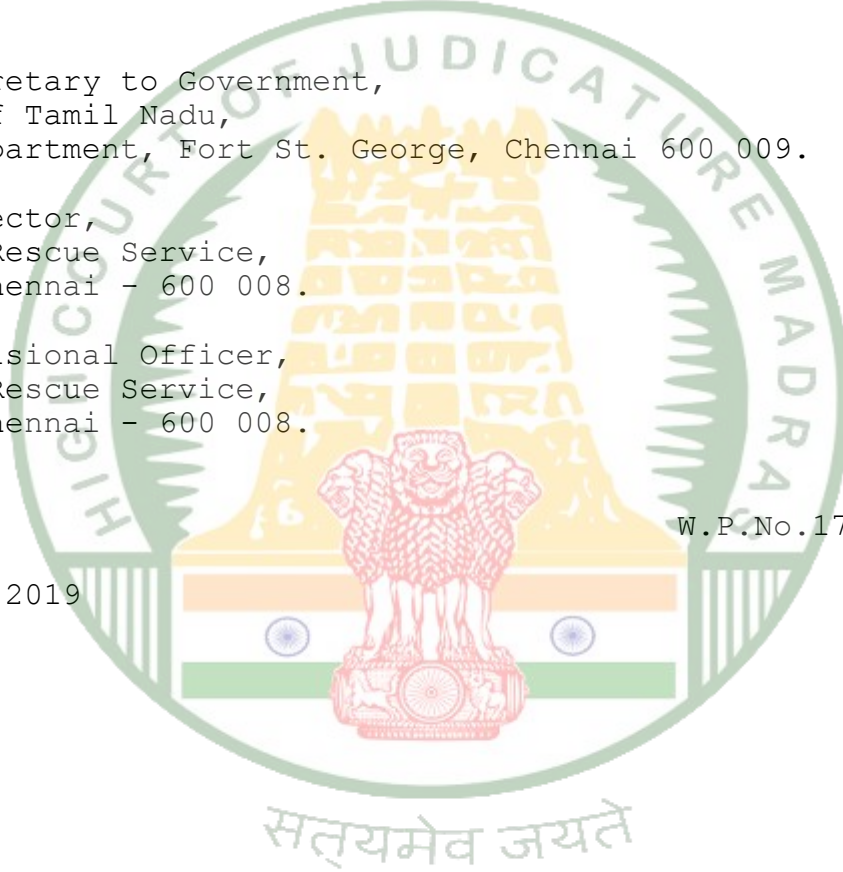
1.The Secretary to Government,
State of Tamil Nadu,
Home Department, Fort St. George, Chennai 600 009.

2.The Director,
Fire and Rescue Service,
Egmore, Chennai - 600 008.

3.The Divisional Officer,
Fire and Rescue Service,
Egmore, Chennai - 600 008.

VGI (CO)
CSL/31.01.2019

W.P.No.17467 of 2011



WEB COPY