

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 24.01.2018
CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P. NO. 1504 OF 2018
AND
W.M.P. NOS. 1914 & 1915 OF 2018

A.Easuraj

.. Petitioner

- Vs -

1. The State of Tamil Nadu
rep. By its Addl. Chief Secretary
to Government
Home (Police - XVII) Department
Fort St. George, Chennai 600 009.
2. The Director of Fire Services
Tamil Nadu Fire & Rescue
Services Department
Chennai 600 008.
3. The Divisional Fire Officer
Coimbatore-Nilgiris Division
Coimbatore.

.. Respondents

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 1st respondent's proceedings made in Letter No.61727/Police XVII/2010 dated 27.6.2012 and further order passed in Letter (Ms) No.774 dated 24.10.2017 and quash the same and direct the respondents to reinstate the petitioner and send him for training so as to enable him to pass the test in the training period and grant him all service and monetary benefits.

For Petitioner : Mr. M.Muthappan
For Respondents : Mr. V.Prabhu, GA for RR-1 to 3

ORDER

This writ petition has been filed challenging the correctness of the impugned order dated 24.10.2017 issued by the 1st respondent rejecting the request of the petitioner for reinstatement in service on the ground that the Government, after careful examination of the request of the petitioner, in the light of the relevant rules, found that there is no valid

ground to consider the request of the petitioner for reinstatement.

2. The petitioner was appointed as fireman through direct recruitment conducted by the Tamil Nadu Uniform Services Recruitment Board on 9.9.1996. In the order of appointment, it is specifically mentioned therein that the person is kept on probation for a period of two years within a continuous period of three years. Before completion of three years period, the person should pass the necessary tests. On joining the post of fireman on 9.9.96, the petitioner underwent training as fireman in the Gudalur Fire Station from 29.3.97 and he was also given training in the State Fire Training School, Tambaram from 29.9.97 to 29.12.97 and, thereafter, he appeared for a test held between 18.12.97 and 20.12.97 and secured 30 marks, but the petitioner was declared failed. The petitioner was issued with a charge memo calling upon him to submit his explanation for not passing the test in the State Fire Training Schoom held in 1997 for which he submitted his detailed reply on 2.3.98 citing his ill-health and family circumstances and pleaded that he was unable to pass the test and, therefore, requested another opportunity to pass the test. But the Assistant Divisional Fire Officer, Coimbatore, after conduct of the disciplinary proceedings, submitted his report holding the charges proved, based on which the proceedings dated 23.7.98 came to be issued and the petitioner was finally discharged from duty on 27.10.98.

3. Aggrieved by the said order of discharge, the petitioner preferred O.A. No.9030/98 on the file of the Tamil Nadu Administrative Tribunal, Chennai. Initially an order of stay was granted against the said order of discharge. By virtue of the order of interim stay, the petitioner was allowed to continue in service as fireman in Perambakkam Fire Station, Tiruvallur District. On the abolition of the Tribunal, the O.A. No.9030/98 was transferred to the file of this Court and renumbered as W.P. No.33824/06, which was dismissed by this Court on the ground that the petitioner has come before this Court without exhausting the remedy of appeal available to him.

4. Aggrieved by the said order passed by this Court in the writ petition on 19.10.2010, the petitioner preferred W.A. No.670/10, which was also dismissed on 16.4.10. However, the Division Bench of this Court, while dismissing the appeal, has given liberty to the petitioner to submit his appeal/representation considering the fact that the petitioner has put in nearly 14 years of service.

5. Pursuant to the liberty granted by this Court, the petitioner submitted his representation, which, after due consideration, was rejected by the respondents. In the

representation, the petitioner has submitted that one Jayaseelan, who was also similarly placed, also failed in the training and subsequently discharged, was reinstated within two years giving him one final chance to pass the training. Since the petitioner was denied similar treatment, representation was submitted by the petitioner to give similar opportunity to the petitioner as was given in the case of the similarly placed person, Jayaseelan. However, the said representation filed by the petitioner was also dismissed against which the petitioner has preferred the present writ petition.

6. Learned counsel appearing for the petitioner submits that direction may be given to the respondents to afford opportunity to the petitioner as was done in the case of similarly placed person Jayaseelan.

7. Though such a contention has been raised by the petitioner, however, it is to be pointed out that the person, who is said to be similarly placed, was discharged from duty on his failure to pass the training examination in the year 1984, but was given one more chance in the year 1986. The said Jayaseelan had successfully appealed against his discharge which was duly considered and he was granted one more opportunity to pass the training. But, in the case of the petitioner, he was discharged from service way back in the year 1998. The petitioner has unsuccessfully challenged the said decision of the respondents in the writ appeal, wherein the Division Bench granted liberty to the petitioner to prefer a representation and directed the respondents to consider the same and pass orders thereon in accordance with law. In compliance of the said direction, the respondents have considered the case of the petitioner in accordance with law and have rejected his claim for reinstatement. Therefore, the case of the petitioner, in no way, can be equated with that of the similarly placed person, Mr. Jayaseelan, whose case stands on a totally different footing. Therefore, in view of the above facts and circumstances, this Court finds no reason to interfere with the order passed by the respondents.

8. For the reasons aforesaid, this writ petition fails and the same is dismissed. Consequently, connected miscellaneous petitions are also dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

GLN

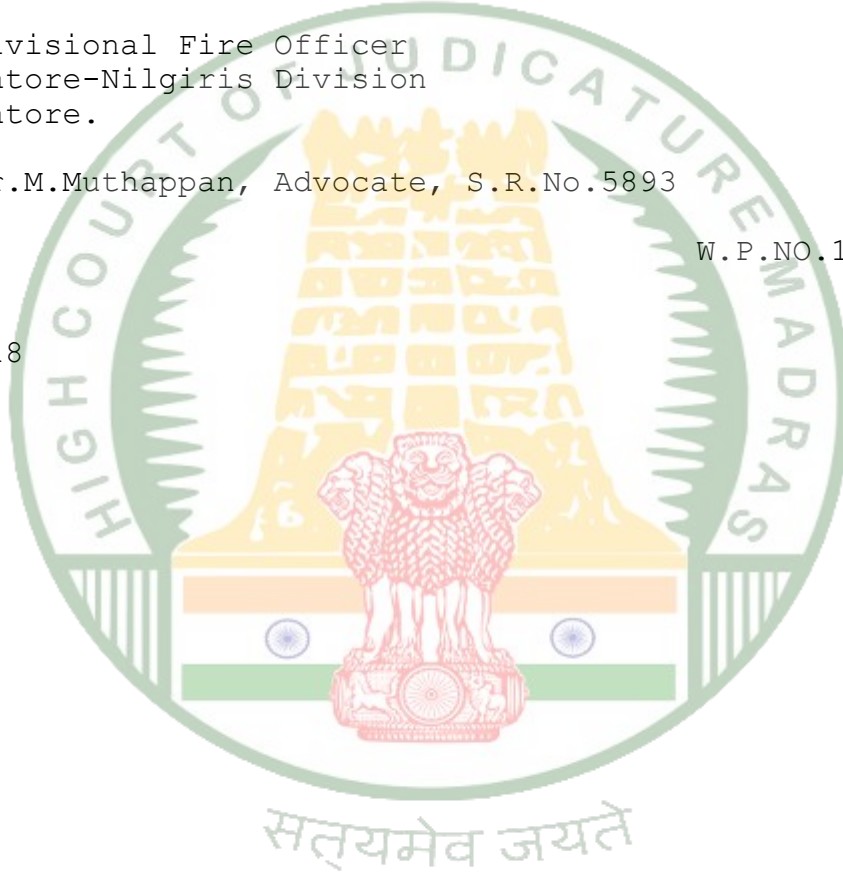
To

1. The Addl. Chief Secretary
to Government
Government of Tamil Nadu
Home (Police - XVII) Department
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+1cc to Mr.M.Muthappan, Advocate, S.R.No.5893

W.P.NO.1504 OF 2018

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