



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2018

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) Nos. 20081, 19157, 19158, 18800 and 18285 of 2014
and
all connected miscellaneous petitions

Muniyasamy	: Petitioner in W.P. (MD) No. 20081/14
Radhakrishnan	: Petitioner in W.P. (MD) No. 19157/14
Murugesan	: Petitioner in W.P. (MD) No. 19158/14
N. Devaraj	: Petitioner in W.P. (MD) No. 18800/14
K. Adaikkalam	: Petitioner in W.P. (MD) No. 18285/14

Vs.

1. The Government of Tamil Nadu,
Through its Secretary,
Home Department,
Secretariat, Fort St. George,
Chennai - 9.

2. The Director,
Fire & Rescue Service, Tamil Nadu,
No. 17, Rukmani Lakshmipathy Road,
Egmore, Chennai - 8. : Respondents in all writ petitions

PRAYER IN W.P. (MD) Nos. 20081, 19157, 19158 and 18800 of 2014: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the second respondent in Na.Ka.No.12265/A1/2014 dated 05.11.2014 and quash the same and consequently direct the second respondent to issue a revised promotional list by including the petitioner for the purpose of promotion of State Fire Officer by calculating the seniority from the original seniority at the level of Fireman by carrying out necessary amendments to the Service Rules for Tamil Nadu Fire Service Subordinate Services as per G.O. (Ms). No. 352 dated 14.05.2012, issued by the first respondent.

Prayer in WP (MD). 18285/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the 2nd respondent in Na.Ka.No.12265/A1/2014 dated 05.11.2014 thereby fixed the date of Board Meet on 14.11.2014 and quash the same and consequently direct the 2nd respondent to issue a revised promotional list by including the petitioner for the



purpose of promotion of Station Fire Officer by calculating the Seniority from the original seniority at the level of Fireman as Pert G.O.(MS) No.352 dated 14.5.2012 issued by the 1st respondent.

For Petitioner : Mr.N.Shankar Ganesh
For Respondents : Mrs.S.Srimathy
Special Government Pleader
[In all writ petitions]

O R D E R

The prayer sought for in these writ petitions are for Writs of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the second respondent in Na.Ka.No.12265/A1/2014 dated 05.11.2014 and quash the same and consequently direct the second respondent to issue a revised promotional list by including the petitioner for the purpose of promotion of State Fire Officer by calculating the seniority from the original seniority at the level of Fireman by carrying out necessary amendments to the Service Rules for Tamil Nadu Fire Service Subordinate Services as per G.O.(Ms).No.352 dated 14.05.2012, issued by the first respondent.

2.Heard Mr.N.Shankar Ganesh, learned Counsel appearing for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents.

3.In all these writ petitions, the petitioners are leading Fireman in the respondent department as of now, except the petitioner in W.P.(MD)No.19158 of 2014, where the petitioner as a leading Fireman retired on superannuation on 30.04.2016.

4.Though, number of grievances had been echoed in these writ petitions, the learned Counsel appearing for the petitioners as well as the learned Special Government Pleader appearing for the respondents, would submit that the issue raised in these writ petitions were also raised in similar other writ petitions and the lead case is W.P.(MD)No.13550 of 2012, which was decided by this Court by order dated 06.04.2018, in the matter of **I.Albert Francis Vs. The State of Tamil Nadu, represented by its Secretary (Home Department), Chennai and others.**

5.In view of the said judgment, the entire personnel working under various capacities in Fire Service Department in the State of Tamil Nadu, whose promotion otherwise due or stagnated and that would be considered for promotion based on the State-wide seniority. Learned Counsel would further submit that if the said judgment is implemented, the grievances of the petitioners also would be taken care of.



6.I have considered the said submissions and have gone through the judgment dated 06.04.2018, where this Court after having considered the issue has passed the following order:

"7.Considering the nature of the case, this Court, at the earliest stage, granted an interim order of stay of all promotions. Today, when the case is taken up for hearing, the learned Special Government Pleader appearing for the respondents has filed affidavit of the second respondent / The Director of the Fire and Rescue Services Department, Chennai, which is having the following averments:

"4.I state that the Government while issuing orders for upgradation or 165 Driver Mechanics as Station Officer (Transport), directed in para 5(ii) of the G.O.Ms. No.352, Home(Police-17)Department, dated 14.05.2012 that "For existing personnel seniority for elevation to the level of Station Officer or Station Officer (Transport) will be based on original seniority at the level of Fireman"(i.e.STATE SENIORITY). Accordingly a proposal has been sent to Government vide this office letter Rc.No.5100/B1/2018, dated 14.03.2018, for orders of Government for effecting promotions to the post of Fireman Driver/Leading Fireman/Driver Mechanic by following the original seniority of Fireman i.e. ENLISTMENT AND STATE SENIORITY. I further state that the proposal of adoption of State Seniority sent to Government for orders is brought to the notice of this Hon'ble Court and it is further informed that, when the Government approve the same issue necessary orders for adoption of ENLISTMENT AND STATE SENIORITY for promotions from Fireman to Station Officer & Station Officer(Transport), necessary proposal to amend the Service Rules will be sent to Government.

5.Pending consideration of the proposal we intent to operate the State Seniority and all promotions will be on temporary basis and will be adjusted depending upon the final outcome of the proposal from the Government. Moreover, due to the stay order and pending Court cases, promotions to the following posts could not be effected for several years and the administration is put to jeopardy. At present, the number of vacancies in

https://hcservices.ecourts.gov.in/hcservices/ promotional posts are given below:



Fireman Driver	:	451
Driver Mechanic	:	33
Leading Fireman	:	249
Station Officer	:	72
Station Officer (Transport)	:	22

WEB COPY

6. Therefore it is prayed that this Hon'ble Court may be pleased to take note of the active action taken by the second respondent and pass orders vacating the stay in the case and thus render justice".

8. Mr. B. Saravanan, learned counsel appearing for the petitioner, submitted that though Rule 2 (b) (ii) of the Tamilnadu Fire Subordinate Services Rules is sought to be declared as illegal in the Writ Petition, since the official respondents have come forward to settle the issue by giving up the method of division-wise promotion in spite of adopting the State-wide seniority of the promotion and also taken a stand that necessary proposal in respect of State-wide seniority for promotion has already been sent to the authorities of the Government and further taken a stand that after approval of the Government with regard to the State-wide seniority basis promotion, necessary amendment also would be proposed to the Government for making amendment of the Rule 2 (b) (ii). Therefore, recording the stand taken by the second respondent, this Writ Petition can be disposed of.

9. Mrs. S. Srimathy, learned Special Government Pleader appearing for the respondents, by relying upon the averment made in the affidavit filed by the second respondent dated March 2018, would submit that the Department sent proposal to the Government to adopt State-wide seniority and when the Government approve the same and issue necessary orders for adoption of enlistment of State-wide seniority for promotion from Fireman to Station officer and Station Officer (Transport), further proposal to amend Service Rule i.e. Rule 2 (b) (ii) also will be sent to the Government.

10. The learned Special Government Pleader also submitted that the promotions are stagnated because of the pending Court cases, where interim orders passed by the Government Department will move for giving promotion by adopting the State-



wide seniority as an ad-hoc basis and all promotions will be on temporary basis and will be adjusted depending upon the final outcome of the decision to be taken by the State Government where the proposal for adoption of State-wide seniority is pending.

11.I have considered the submissions of the learned counsel on either side and perused the materials placed before this Court.

12.As rightly pointed out by the learned Special Government Pleader appearing for the official respondents relying upon the averments made in the affidavit filed by the second respondent dated March 2018, though the Department already decided to adopt the State-wide seniority for promotion to fill up the posts including Leading Fire Man and in the meanwhile, they already decided to adopt the State-wide seniority on ad-hoc basis promotion as the promotions were stagnated for a long time. The stand taken by the Government as recorded in the affidavit filed before this Court, is to be taken into consideration.

13.In the said affidavit, the second respondent has stated that a number of postings like Fireman, Driver, Driver Mechanic, Leading Fireman, Station Officer, Station Officer (Transport) are kept vacant because of the pending Writ Petition. Also, the second respondent in the said affidavit has specifically averred that the proposal sent by the Department to the Government on adoption of State-wide seniority for promotion and also taken a stand that when the approval given by the State Government, further necessary proposal to amend the service Rules would also to be sent to the Government, this Court feels that the petitioner has no further grievance.

14.In view of the averment made in the affidavit filed by the second respondent, this Court is of the view that, the present Writ Petition can be disposed of by recording the said submission made by the respondents, especially, the second respondent, in paragraph Nos.4 and 5 of the affidavit dated March 2018. Accordingly, the



15. It is made clear that in future, if the official respondents do not act as per their averment in the said affidavit and if any violation is noticed with regard to the non-adoption of State-wide seniority for consideration of promotion, the same can be agitated by the petitioner and private respondents in the manner known to law.

16. With these observations, the Writ Petition is disposed of by recording the stand taken by the respondent Department. Consequently, connected Miscellaneous Petitions are closed. No costs."

7. Since, the issue raised in these writ petitions are covered by the said decision made by this Court in the judgment cited above, recording the said order that would take care of the grievances raised by the petitioners herein also, these writ petitions are disposed of. However, in the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government of Tamil Nadu,
Home Department,
Secretariat, Fort St. George,
Chennai - 9.
2. The Director,
Fire & Rescue Service, Tamil Nadu,
No.17, Rukmani Lakshmipathy Road,
Egmore, Chennai - 8.

+5cc to Mr.N.Shankar Ganesh, Advocate Sr.No.64846 to 64850

+2cc to Mr.Mrs.S.Srimathy, Advocate Sr.No.65066

+1cc to Spl.Government Pleader Sr.No.65043

MR

VB/RSK/SAR4/08/05/2018/6P/11C