



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**W.P. (MD) No.4366 of 2013

P.Thirumalaiappan

... Petitioner

-Vs-

1. The Government of Tamil Nadu,
Rep. By its Secretary to Home Department,
Fort St.George,
Chennai-600 009.
2. The Director of Fire and Rescue Services,
Tamil Nadu,
17, Rukumani Lakshmipatty Road,
Egmore,
Chennai-600 008.
3. The Deputy Director of Fire Service,
South Zone,
Madurai.
4. The Divisional Officer,
O/o.The Divisional Officer of Fire and
Rescue Services Department,
Tirunelveli.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.031/A1/2013 dated 23.01.2013 and quash the same and consequently direct the respondents 2 to 4 to revise and regularize the service seniority and give notional promotion with monetary benefits to the petitioner.

For Petitioner	: Mr.A.Rajaram
For R1 to R4	: Mr.R.Sethuraman
	Special Government Pleader

ORDER

<https://hcservices.ecourts.gov.in/hcservices/>
The order of rejection dated 23.01.2013 in respect of the claim of the writ petitioner for retrospective regularisation in



the cadre of Leading Fireman from the year 1990 along with the consequential benefits is under challenge in this writ petition.

2.The facts in nutshell requires for the purpose of considering the relief sought for in this writ petition are that the writ petitioner was appointed as fire man on 01.09.1980. Further promoted to the post of Leading Fireman on 27.06.2005 and he was retired from service on 30.06.2011 on reaching the age of superannuation.

3.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner have to be given the promotion to the post of Leading Fireman in the year 1990 itself. Further the right of promotion was denied to the writ petitioner in appropriate time. That is why the writ petitioner was not able to serve as leading fireman for 25 years, consequently he was unable to get the pensionary benefits as applicable to the post of Leading Fireman.

4.The learned counsel appearing on behalf of the respondent states that the writ petitioner was retired from service on 30.06.2011 and he had not served as Leading Fireman for about 25 years. Further retrospective regularisation cannot be granted to the post of Leading Fireman, since the writ petitioner was promoted to the post of Leading Fireman only with effect from 27.06.2005. Thus the benefit as applicable to the post of Leading Fireman was already disbursed to the petitioner with effect from 27.06.2005. Therefore, there is no infirmity or irregularity in respect of the impugned order passed in this writ petition.

5.The relief sought is to grant regularisation of services including Seniority for notional promotion in the post of Leading Fireman. Even as per the affidavit filed in support of the writ petition the writ petitioner was actually promoted as Leading Fireman with effect from 27.06.2005. Now the petitioner claims that he ought to have promoted to the post of Leading Fireman with effect from 1990. However, the present writ petition is filed after a lapse of 23 years from the date of which, the petitioner claims that his claim for promotion ought to have been considered by the respondents.

6.However, the learned counsel for the writ petitioner states that the Director of Fire and Rescue Services recommended the case of the writ petitioner for career progression of promotion to all the personnel to become as Station Officer or equivalent on completion of 25 years of service on par with the concession given to the police personnel.

<https://hcservices.ecourts.gov.in/> on the recommendations the learned counsel for the petitioner states that as per the same the writ petitioner is entitled for notional promotion for retrospective effect. The



fact remains that the writ petitioner had not served as Leading Fireman for 25 years. However, the writ petitioner had served as Leading Fireman for about six years from 2011.

8. Retrospective regularisation after a lapse of 23 years cannot be claimed by the writ petitioner. The writ petitioner is seeking retrospective regularisation in the post of Leading Fireman by granting notional benefits with effect from the year 1990 onwards. The said claim cannot be now considered more specifically after a lapse of 23 years and after the retirement of the writ petitioner.

9. This Court is of an opinion that the promotion can never be claimed as a matter of right. Consideration for promotion alone is fundamental right. Even if the writ petitioner was not considered during the appropriate time, the writ petitioner ought to have approached the proper forum during the relevant point of time.

10. The writ petition is filed in the year 2013 and the claim of the writ petitioner for notional promotion is from the year 1990. Thus, there is an enormous delay on the part of the writ petitioner, even to claim for notional promotion. Thus the writ petition is liable to be rejected on the ground of laches also.

11. This apart, the benefit as applicable was already disbursed to the writ petitioner and the writ petitioner has not made out any ground in respect of the claim of retrospective regularisation and notional promotion. In these circumstances, this Court is of an opinion that the writ petitioner had not established any legal right to consider his right of retrospective regularisation and notional promotion with effect from 1990 in the post of Leading Fireman. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government Home Department,
Fort St. George, Chennai-600 009.
2. The Director of Fire and Rescue Services,
Tamil Nadu, 17, Rukamani Lakshmipatty Road,
Egmore, Chennai-600 008.
3. The Deputy Director of Fire Service,
South Zone, Madurai.



4. The Divisional Officer,
O/o. The Divisional Officer of Fire and
Rescue Services Department,
Tirunelveli.

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+1cc to Spl. Government Pleader Sr.No.54930

TA

VB/SKN/RSK/SAR1/02/05/2018/4P/6C

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