

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.4355 of 2009

ORDER:

This Writ Petition is filed seeking a writ of Mandamus declaring the action of the respondents in not placing the petitioner below to Sri P.Sravannan, in the cadre of Assistant (Fire), by reckoning the date of his initial appointment, by proceedings, dated 27.07.2000, in the seniority list prepared in the years 2002, 2004 and 2006, as arbitrary, illegal and contrary to the regulations framed and violative of Articles 14 and 21 of the Constitution of India and consequently direct the respondents to fix the seniority of the petitioner in the cadre of Assistant (Fire), next to Sri P.Sravannan and to grant all such other reliefs including promotions on par with Sri P.Sravannan in the cadre of Senior Assistant (Fire), Supervisor.

2. Heard Sri P.Sridhar Rao, learned counsel for the petitioner, and Sri E.Madan Mohan Rao, learned Standing Counsel for the respondents.

3. It has been contended by the petitioner that he was initially appointed as Trainee Fire and Rescue Operator, after undergoing regular selection process on 27.07.2000. It has been further stated by the petitioner that in the merit list, the petitioner is placed at Sl.No.11 immediately after Sri P.Sravannan.

4. The grievance of the petitioner is that though he is meritorious, he was not given the appropriate seniority while fixing the seniority on the ground that he could not clear viva-voce test, which was conducted in the month of February, 2001. It is further

stated since he could not clear his viva-voce test, which was conducted in the month of April, 2001, his seniority is being counted from May, 2001. Therefore, the petitioner has submitted a representation to the respondents to fix his seniority by duly taking into account the merit in the selection process. But, the respondents have rejected his case by proceedings, dated 19.02.2007 on the ground that the petitioner along with three other individuals could not clear viva-voce test, which was conducted in February, 2001, and the petitioner has cleared the viva-voce test only in the month of April, 2001 and accordingly, his seniority will be counted from May, 2001 only, but not from February, 2001. The petitioner further submits that in respect of one Sri R. Satyanarayana, who is also similarly placed like that of the petitioner and though he could not clear viva-voce test, he was placed over and above one Sri M.N.Rao and when a similar direction is being sought for by the petitioner, the case of the petitioner also to be considered for fixing his seniority by duly taking into account the merit of the petitioner in the selection. The petitioner has clearly pointed out in his representation, dated 21.05.2007 that the respondents, vide proceedings, dated 17.05.2007 have extended similar benefits in respect of Sri R.Satyanarayana, but the same is being denied to the petitioner. The respondents have not passed any orders on the said representation.

5. Learned counsel appearing for the petitioner submits that not only the case of Sri R.Satyanarayana but also the cases of Sri Dalbir Singh, Sri Sunil Kumar, Sri Sham Singh, Gopal Singh

etc., was considered, but the same benefit is not extended to the petitioner.

6. Learned Standing Counsel appearing for the respondents had contended that after following the entire procedure, the seniority of the petitioner was rightly fixed in terms of CHQ, dated 21.01.2011, and no irregularity has been committed by the respondents while preparing the seniority list and there are no grounds in the writ petition and the same is liable to be dismissed.

7. This Court, having considered the rival submissions made by the parties, is of considered view that ends of justice would be met if a direction is given to the respondents to dispose of the representation submitted by the petitioner on 21.05.2007.

8. Accordingly, the Writ Petition is disposed of directing the respondents to dispose of the representation, dated 21.05.2007, said to have been submitted by the petitioner, within a period of four (4) weeks from the date of receipt of a copy of this order.

Miscellaneous petitions pending if any, shall stand closed.
There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

OCTOBER 24, 2018
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Date:24.10.2018

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