

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.13426 of 2010
and
M.P.No.2 of 2014

K.Srinivasan

.. Petitioner

Vs.

1.The Deputy Conservator,
Marine Department,
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.

..Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus calling for the records of the respondent in his proceeding No.D3/753/10/M dated 05.04.2010 and quash the same and consequently direct the respondent herein to promote the petitioner as Fireman Grade-I with effect from 2008 with all monetary and other attendant benefits.

For Petitioner : Mr.T.Dharani for
Mr.K.Raja

For R1 : Mr.M.R.Dharani Chander

For R2 : No Appearance

O R D E R

Writ Petition filed for issuance of a writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceeding No.D3/753/10/M dated 05.04.2010 and quash the same and consequently direct the first respondent herein to promote the petitioner as Fireman Grade-I with effect from 2008, with all monetary and other attendant benefits.

2.The petitioner originally prayed to quash the order of the first respondent dated 05.04.2010 made in proceeding No.D3/753/10/M and promote him as Fireman Grade-I with effect

from 2008, with all monetary and other attendant benefits. Subsequently, the petitioner filed M.P.No.1 of 2014 to implead the second respondent in this Writ Petition. This Court by the order dated 27.06.2014, allowed the said petition and impleaded the second respondent in this Writ Petition. The petitioner filed M.P.No.2 of 2014 to amend the prayer to quash the order of the first respondent dated 05.04.2010 and to promote him as Fireman Grade-I and Leading Fireman with effect from the date on which the second respondent got promotion as Fireman Grade-I and Leading Fireman with all monetary and other attendant benefits. No order was passed by this Court in the said petition.

3.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the first respondent and perused the entire materials on record.

4.The case of the petitioner is that he is entitled to be promoted as Fireman Grade-I with effect from 01.12.2002. He was not given any promotion to the post of Fireman Grade-I, based on the seniority and hence he gave a representation dated 15.03.2010 to the first respondent. The first respondent by the impugned order dated 05.04.2010 made in proceeding No.D3/753/10/M, stated that in view of the punishments, the petitioner was not eligible for promotion to the post of Fireman Grade-I. According to the petitioner, all the punishments imposed on him, i.e., stoppage of increment for different periods were over in the year 2008 itself and the petitioner was entitled to be promoted from the year 2008 onwards, as there was no currency of punishment in the year 2008. The first respondent in the impugned order has stated that the punishment order dated 25.11.2003 and 14.11.2005 were not given effect to and therefore the petitioner was not eligible to be promoted as Fireman Grade-I. It is not the fault of the petitioner for the said punishments were not given effect to. In fact, the petitioner was not given any increment from 01.09.2000 onwards. His juniors, including the second respondent were promoted to the post of Fireman Grade-I with effect from 01.12.2002 and the petitioner is not seeking any promotion with retrospective effect from 2002 onwards, but he is claiming promotion only from the year 2008, when the punishments were over. The petitioner by filing an amendment petition is seeking promotion as Fireman Grade-I and Leading Fireman with effect from the date on which the second respondent got promotion as Fireman Grade-I and Leading Fireman with all monetary and other attendant benefits.

5.The first respondent has not filed any counter affidavit. The learned counsel appearing for the first respondent filed typed set of papers enclosing order dated 02.04.2013, whereby the petitioner was promoted as Fireman Grade-I with effect from 01.06.2012.

6.From the averments in the affidavit filed in support of the above Writ Petition and the impugned order, it is seen that the punishments imposed on the petitioner were over with effect from 30.08.2008. From the year 2008, there was no currency of punishment in force. The first respondent has not stated in the impugned order dated 05.04.2010 as to why the punishment dated 25.11.2003 and 14.11.2005 were not given effect to. On the other hand, the petitioner has stated that he was not paid increment from 01.09.2000 onwards. This statement is not denied by the first respondent. The second respondent was promoted in the year 2002 itself. But the petitioner is not entitled to be promoted in the year 2002, as the punishment of stoppage of increment imposed on the petitioner were in force till 30.08.2008. As there is no currency of punishment from the year 2008, the petitioner is entitled to be promoted as Fireman Grade-I in the year 2008 itself. For the above reason, the impugned order of the first respondent dated 05.04.2010 is quashed and the first respondent is directed to promote the petitioner as Fireman Grade-I with effect from 2008 with all monetary and other attendant benefits.

7.In the result, this Writ Petition stands allowed. No costs. Consequently, M.P.No.2 of 2014 is dismissed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

krk
To

The Deputy Conservator,
Marine Department, सत्यमेव जयते
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.

+1 CC to Mr.Dharanu Chandar, Advocate sr 60935.
+1 CC to Mr.Raja, Advocate sr 60406.

W.P.No.13426 of 2010 and
M.P.No.2 of 2014

MG(CO)
SP(19/08/2019)