

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.25802 of 2009

P.Siva .. Petitioner

-vs-

1. The Government of Tamil Nadu
rep.by its Secretary
Home Department
Fort St.George
Chennai 600 009
2. The Director
Tamil Nadu Fire and Rescue Services
Egmore
Chennai 600 008
3. The Divisional Officer
Tamil Nadu Fire and Rescue Services
Kancheepuram Division
Kancheepuram .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the third respondent in his proceedings in Na.Mu.No.2678/B/2008 dated 13.01.2009 and which was confirmed by the order of the second respondent herein issued in his proceedings Na.Ka.No.12836/B5/2009 dated 21.07.2009 and quash the same and directing the respondents to reinstate the petitioner into service together with seniority and with all attendant monetary benefits to the petitioner.

For Petitioner :: Mr.P.Gunaraj

For Respondents :: Mr.K.Ravikumar
Additional Government Pleader

ORDER

The petitioner was dismissed from service by order dated 13.1.2009 passed by the third respondent. When the petitioner questioned the correctness of the said order before the second

respondent, he was unable to succeed and failed. Thereafter, he has come to this Court challenging the correctness of both the impugned orders passed by the third and second respondents, without exhausting the further appeal remedy available before the first respondent.

2. A counter affidavit has been filed by the respondents. The learned Additional Government Pleader for the respondents, referring to the stand taken in paragraph-6 of the counter affidavit, stated that the petitioner, without exhausting the further appeal remedy available to him before the first respondent, has wrongly filed the writ petition. Therefore, the writ petition should be dismissed directing the petitioner to approach the first respondent by filing appeal.

3. Recording his statement and the stand taken in paragraph-6 of the counter affidavit, which reads as follows,

"6. It is submitted that after considering the materials on record and the enquiry report submitted by the enquiry officer, the 3rd respondent herein called for further explanation from the petitioner on 17.06.2008. The Petitioner submitted his further explanation on 02.07.2008. After considering the entire records, the 3rd respondent passed final orders on 13.01.2009 in Na.Ka.No.2678/B/2008 dismissing the petitioner from service 13.01.2009. I state that as against the order of dismissal, the petitioner preferred an appeal before the 2nd respondent herein who has also after having considered dismissed the appeal on 21.07.2009. At this stage, the present Writ Petition has been filed, challenging the above orders. In fact, the petitioner is having further right of appeal before the first respondent herein as provided under law. However, petitioner without exhausting the further appeal available to him before the first respondent has filed the above Writ Petition and on that score also the above Writ Petition is liable to be dismissed."

the writ petition is dismissed giving liberty to the petitioner to work out his remedy before the first respondent in the manner known to law. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

ss

To

1. The Secretary to Government
Home Department
Fort St.George
Chennai 600 009

2. The Director
Tamil Nadu Fire and Rescue Services
Egmore
Chennai 600 008

3. The Divisional Officer
Tamil Nadu Fire and Rescue Services
Kancheepuram Division
Kancheepuram

+1cc to Mr.P.Gunaraj, Advocate SR.No.33214

+1cc to Government Pleader SR.No.34770

W.P.No.25802 of 2009

VBA (CO)
GMY (29/05/2019)



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