

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Ms.JUSTICE P.T. ASHA

W.A.No.985 OF 2019

1 J.D.PRASSANA
2 E.MUTHU
3 P.RAMESH
4 V.PARASURAMAN
5 M.ELANGOVAN
6 S.SUBBIAH
7 S.INBARAJ ... Appellants / Petitioners

Vs

1 STATE OF TAMILNADU
REP. SECRETARY TO GOVERNMENT HOME (POLICE
XVIII) DEPARTMENT FORT ST. GEORGE
CHENNAI - 600009

2 THE CHAIRMAN/ DIRECTOR STATE
RECRUITMENT AND PROMOTION BOARD
DIRECTORATE OF FIRE AND RESCUE SERVICES
EGMORE CHENNAI - 600008

3 DIRECTOR OF FIRE AND RESCUE SERVICES
O/o. DIRECTORATE OF FIRE AND
RESCUE SERVICES, EGMORE CHENNAI - 600008

4 JOINT DIRECTOR NORTHERN REGION
O/O. DIRECTORATE OF FIRE AND RESCUE
SERVICES EGMORE CHENNAI - 600008

5 DEPUTY DIRECTOR NORTH WESTERN REGION
FIRE AND RESCUE SERVICE DEPARTMENT
VELLORE

6 R.ROLAN
7 V.DHINAKAR
8 T.MOOKAIAH
9 S.THANGASAMY
10 J.VIJAYAN
11 S.JANARATHANAM

12 B.SELVAM
13 RAJASEKARAN
14 R.RAMESH BABU
15 R.UDAYAKUMAR
16 K.P.VENKATESAN
17 C.RAJA
18 S.ARUNAGIRI
19 S.ANBALAGAN
20 G.RAGUPATHI
21 D.KAMAL BASHA
22 S.RAMESH KUMAR
23 V.MURUGAN
24 P.PANEER SELVAM
25 S.RAJENDRAN
26 B.MATHAPPAN
27 M.RAVIKUMAR
28 R.RAMESH
29 M.MURUGADHAS
30 T.MURUGIAH
31 M.KARUNANITHI
32 R.NEELAKANDAN
33 B.AMIRTHALINGAM
34 D.MANICKAM
35 B.JAWAHAR
36 M.JOHNSON

... Respondents

Writ Appeal filed to set aside the Order dated 15.02.2019 in W.M.P.No.36725/2018 in W.M.P.19313/2018 in W.P.No.16219/2018.

Prayer in W.P.No.16219 of 2018:

Writ petition filed under article 226 of the Constitution of India praying to issue a Writ of Mandamus of directing the 1st respondent to direct the 3rd respondent to constitute the 2nd respondent/ State Recruitment and Promotion Board as provided under statutory rules 2(b) (ii) of Tamil Nadu Fire and Rescue Services Subordinate Rules for selecting qualified Leading Fireman fit for the post of Station Fire officer for being promoted for the existing vacancies in the panel year 2016-2017 and 2017-2018 and for vacancy for the panel year 2018-2019 from the selected Leading Fireman state wise seniority list approved on 25.02.2018.

Prayer in WMP.No.36725 of 2018:

Petition filed praying to vacate the *interim stay granted on 3.8.2018 made in WMP No.19313 of 2018 in WP 16219 of 2018.*

Prayer in W.M.P.No.19313 of 2018:

Petition filed praying to issue an order of interim injunction restraining the respondents 3 to 5 from making any

promotion to the post of Assistant Station Fire Officer/ Station Fire Officer from any other category other than Leading Fireman in terms of Rule 2(b) and Rule 2(b)(ii) of Tamil Nadu Fire and Rescue Services from the Leading Fireman state wise seniority list approved on 25.02.2015 pending of the Writ petition.

For appellant : Mr.N.S.Nandakumar

For Respondents : Mr.Vijay Narayan, Advocate General,
assisted by Mrs.A.Sri Jayanthi, Spl.G.P.
For respondents 2 to 5

Mrs.S.Ambigapathi,
for respondents 11, 20, 21, 25, 35 and 36

Respondents 6 to 10 : Not ready in Notice.
12 to 19, 22 to 24,
26 to 34

J U D G M E N T

(made by K.K.SASIDHARAN, J.)

The appellants filed a Writ Petition in W.P.No.16219 of 2018 with the following prayer:-

"Writ of Mandamus or any other appropriate writ order or direction directing the 1st respondent to direct the 3rd respondent to constitute the 2nd respondent/ State Recruitment and Promotion Board as provided under statutory rules 2(b) (ii) of Tamil Nadu Fire and Rescue Services Subordinate Rules for selecting qualified Leading Fireman fit for the post of Station Fire officer for being promoted for the existing vacancies in the panel year 2016-2017 and 2017-2018 and for vacancy for the panel year 2018-2019 from the selected Leading Fireman state wise seniority list approved on 25.02.2018."

The learned Single Judge initially granted an interim order. Subsequently, the interim order was vacated and a direction was given to the respondents 1 to 5 to expedite the process of issuance of amendment to the rules, and preparation of Statewide seniority list and to make temporary promotions. The said order is the subject matter of the intra court appeal.

2. We have heard the learned counsel for the appellants. We have also heard the learned Advocate General on behalf of the State.

3. The learned Single Judge initially granted interim order on 3 August 2018, restraining the respondents 1 to 5 from granting promotion from the post of Fireman to Leading Fireman

and Station Officer, on the basis of the State wise seniority. The order was subsequently vacated by the learned Single Judge taking into account the submissions made on behalf of the State that proposal had already been sent to the Government for issuing amendments to the service rules.

4. It is the case of the appellants that even before the issuance of the order dated 15 February 2019, vacating the interim order, the Director of Fire and Rescue Services granted promotion by operating the statewide seniority list. We therefore passed an interim order on 27 April 2019 making it very clear that any promotion given would be subject to the result of the appeal. We made it clear that no right or equity would accrue to the promotees on account of the promotion given to them after vacating the interim order by the learned Single Judge.

5. After hearing the learned counsel for the appellants and the learned Advocate General on behalf of the State, we are of the view that interest of justice would be sub served by directing the Registry to place the Writ Petitions for final disposal. We are also informed that the appellants have challenged the validity of the amendments made to the service rules. It would be in the interest of all the parties to dispose of the pending Writ Petitions. We make the position very clear that any promotion given on the basis of the seniority list would be subject to the result of the Writ Petitions.

6. We direct the Registry to post the Writ Petitions before the learned Single Judge as per roster during the first week of July 2019 for final disposal. It is open to the parties to make a mention before the learned single Judge for an early disposal of the Writ Petitions.

7. The intra court appeal is disposed of with the above direction. No costs. Consequently, C.M.P.Nos.7391 and 7393 of 2019 are closed.

Sd/-

Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

tar
To

1 THE SECRETARY TO GOVERNMENT
HOME (POLICE XVIII) DEPARTMENT
FORT ST. GEORGE
CHENNAI - 600009

- 2 THE CHAIRMAN/ DIRECTOR STATE
RECRUITMENT AND PROMOTION BOARD
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FIRE AND RESCUE SERVICE DEPARTMENT
VELLORE
- 6 THE SECRETARY TO THE GOVERNMENT,
THE PERSONNEL AND ADMINISTRATIVE REFORMS DEPT.,
FORT ST. GEORGE, CHENNAI - 9.

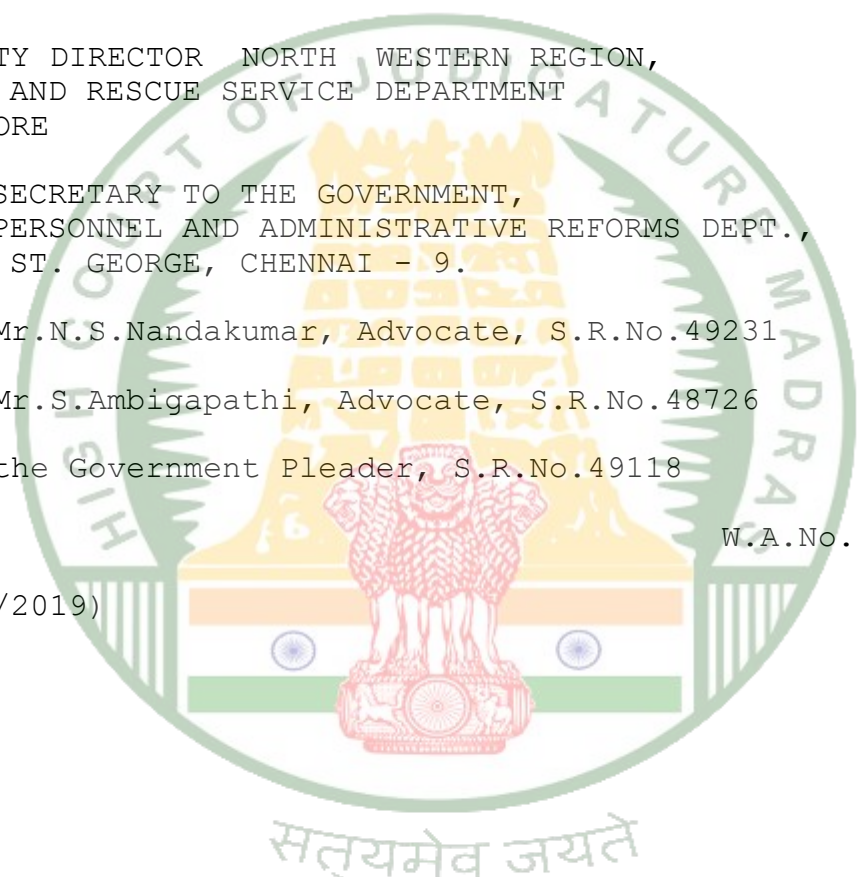
+1 cc to Mr.N.S.Nandakumar, Advocate, S.R.No.49231

+1 cc to Mr.S.Ambigapathi, Advocate, S.R.No.48726

+1 cc to the Government Pleader, S.R.No.49118

VG-I (CO)
SSM(16/07/2019)

W.A.No.985 OF 2019



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