



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P[MD]No.9422 of 2014

and

M.P.[MD]Nos.1 & 2 of 2014

1. U.Chandra Paul
 2. V.Sivasubramaniam
 3. G.Kannappan
 4. M.Thanga Pandian
 5. R.Kottur Samy
- ... Petitioners

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary to Home Department,
Fort St. George,
Chennai - 600 009.
 2. The Additional Director General of Police cum
the Director of Fire and Rescue Services,
Tamil Nadu,
17, Rukumani Lakshmipatty Road,
Egmore,
Chennai - 600 008.
 3. The Divisional Officer,
O/o. The Divisional Officer of Fire and
Rescue Services Department,
Tirunelveli.
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the second respondent in Na.KA.No.5737/A4/2013 dated 14.03.2013 and quash the same and consequently direct the respondents 2 & 3 to revise and regularise the service seniority and give promotion with monetary benefits to the petitioner.

For Petitioners : Mr.S.A.Rajaram

For Respondents : Mr.M.Jeyakumar
Additional Government Pleader

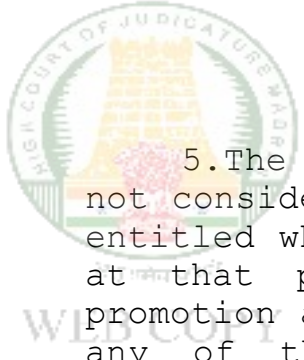
**ORDER**

The order impugned dated 14.03.2014 states that revision of seniority and promotion to the post of Station Officer to the writ petitioners cannot be granted. Admittedly, the writ petitioners were holding the post of Leading Firemen and retired from service. The next avenue for promotion is the Station Officer and the names of the writ petitioners were not considered for promotion to the post of Station Officer.

2.Learned Counsel for the writ petitioner states that the writ petitioners are fully qualified and eligible for promotion to the post of Station Officer in the Fire and Rescue Services Department. However, their cases were not considered. It is contended that in respect of the final seniority list published by the Director by proceeding dated 13.02.2015, the names of these petitioners were included. In view of the fact that the names of the writ petitioners were included in the final seniority list, the petitioners are to be considered for promotion to the post of Station Officer.

3.Learned Additional Government Pleader appearing on behalf of the respondents brought to the notice of this Court that all the writ petitioners have already retired from service. The final seniority list was issued in proceedings dated 13.02.2015. Mere seniority list is not a ground to claim promotion. In view of the fact that the writ petitioners have already retired from service, the benefit of promotion at this length of time cannot be granted.

4.This Court is of the opinion that promotion *per se* cannot be claimed as a matter of legal right. However, consideration for promotion is a fundamental right of an employee. As submitted by the learned Counsel for the petitioner, the final seniority list was furnished by the respondent Director vide proceedings dated 13.02.2015. However, the writ petitioners by that time attained the age of superannuation and retired from service. Mere publication of seniority would not confer any right on the writ petitioners to claim promotion. At the time of preparation of panel for promotion to the post of Station Officer, if the writ petitioners are in service then alone their names can be considered for promotion. The procedures to be followed is that seniority list is a permanent document and the source for preparation of panel of eligible persons who all are found fit for further promotion to the higher posts. Thus, by following the seniority list, the names of all the eligible persons are to be considered for inclusion of their respective names in the panel, whenever a decision is taken by the administration to fill up the vacancies. At the time of preparation of panel all the eligible persons who all are waiting for promotion ought to be considered. The revision of seniority list is at no avail for the writ petitioner to claim promotion to the post of Station Officer.



5.The Writ petitioners at the time of preparation of panel was not considered for promotion. If at all, the writ petitioners were entitled when they were in service and their juniors were promoted at that point of time, then alone they can claim notional promotion and not otherwise. Further, no promotions are granted to any of the juniors of the writ petitioners when the writ petitioners were in service. Thus, after retirement, they cannot claim notional promotion on par with their juniors. This being the principle to be followed, the case of the petitioners cannot be granted for promotion, since the petitioners have not established that their juniors were promoted when they were in service with reference to the State-wide seniority list and therefore, the order impugned is not in violation.

6.The counter filed by the respondents also states that the State level seniority lists are drawn only for the third level or fourth level promotion for all the entry level posts covered under the Tamil Nadu General Subordinate Service Rule as in the Tamil Nadu Fire and Rescue Services Department. Hence, the request of the petitioners to draw the State wide seniority list for the post of Station Officer in Fire and Rescue Services Department is against the existing rules and orders followed in the department. As rightly stated, there cannot be any state-wide seniority list in the cadre of Leading Fireman and district-wide seniority is being followed in the Department of Fire and Rescue Services. Thus, the case of the writ petitioners cannot be considered in view of the factual position as well as in accordance with the rules.

7.Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

MR

To

1. The Secretary to Home Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.



2. The Additional Director General of Police cum
the Director of Fire and Rescue Services,
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17, Rukamani Lakshmipatty Road,
Egmore,
Chennai - 600 008.

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

+ 1 CC TO Mr.A.Rajaram, ADVOCATE IN SR No.71439
+ 1 CC to The Special Government Pleader SR.No.72037

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KS(10.07.2019) 4 P 6 C