



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.9211 of 2014

WEB COPY

J.Jebakumar

... Petitioner

-Vs-

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

2.The Additional Director of Fire and Rescue Services,
Tamilnadu, 17, Rukamani Lakshmiapatty Road,
Egmore, Chennai-600 008.

3.The Divisional Officer,
Office of the Divisional Officer of Fire and Rescue
Services Department,
Tuticorin.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.24303/A4/2013, dated 29.01.2014 and quash the same and consequently direct the respondents 2 and 3 to revise and regularize the service seniority and give notional promotion with monetary benefits to the petitioner.

For Petitioner : Mr.A.Rajaram

For Respondents : Mr.K.Mu.Muthu,

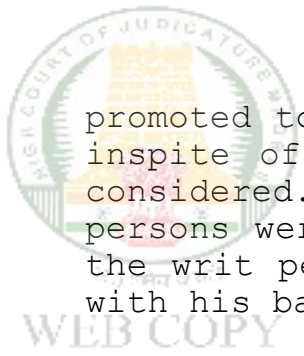
Additional Government Pleader

ORDER

The order of rejection, dated 29.01.2014, rejecting the claim of the writ petitioner for appointment to the post of Station Officer in Fire Service and Rescue Department, is under challenge in the present writ petition.

2.The petitioner was appointed as Fireman on 01.09.1982, he was subsequently promoted to the post of Driver on 08.05.2000. The writ petitioner states that he was promoted as Driver, after completion of 18 years of service in the cadre of Fireman.

3.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is fully qualified for



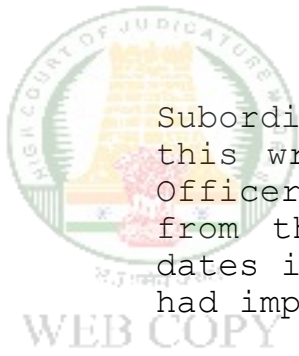
promoted to the post of Station Officer and he is also recommended, inspite of the fact that the case of the writ petitioner was not considered. It is further stated that the other similarly placed persons were promoted to the post of Station Officer and therefore, the writ petitioner is also entitled retrospective promotion on par with his batch mates.

4.The learned Additional Government Pleader appearing on behalf of the respondents states that the writ petitioner was not qualified for promotion to the post of Station Officer. The writ petitioner was allowed to retire from service on 30.11.2013. The writ petition itself was filed, after the retirement of the writ petitioner was not serving in the Field cum Assistant Station Officer for promotion to the post of Station Officer. In any event, the case of the writ petitioner cannot be considered as he was not possessing the requisite qualification and he was possessing the LMV Driving License and therefore, he was not qualified for further promotion. The time bound promotion given to the police officials for the post of Sub-Inspector of Police is not applicable to the case of the writ petitioner, as the said Government order in G.O.Ms.No.937, Home Department, dated 21.07.1998 is applicable only to the police personnel working in Police Department and not applicable to the Fireman working in Fire Service Department. It is further contended that the petitioner was not holding the Feeder Category of Driver, Mechanic for promotion to the post of Station Officer as per G.O.Ms.No.352. With reference to the facts regarding the other similarly placed persons, the counter statement reads as under:-

"...7.It is submitted that the following persons mentioned by the petitioner have been promoted as per Fire Service Subordinate Rules as such;

SI.No.	Name	Station Officer (Transport) from Feeder category Seniority SI.No.	Promoted as Fireman Driver on	Promoted as Driver Mechanic on
01.	Thiru.T.Muthukumar	35	07.09.1996	06.04.2002
02.	Thiru.A.Shanmugam	36	17.03.1997	06.04.2002
03.	Thiru.B.Roshan	37	19.03.1997	06.04.2002
04.	Thiru.T.Ponraj	38	24.03.1996	06.04.2002

8.The petitioner J.Jebakumar was retired before attaining the age of superannuation, did not hold the post of Feeder category (ie.) Driver Mechanic. So he had not been promoted to the post of Station Officer (Transport) as per Fire Service



Subordinate Rules. Hence, the petitioner's made averments in this writ petition is that juniors were promoted as Station Officers (Transport) are absurd, because they have promoted from the post of feeder category in above said respective dates in the second column of the tabular. So the respondents had implemented i.e.G.O. Uniformly in their department.

9.It is further submitted that G.O.No.210, dated 11.03.1987 prescribes that only for non-promotional post here, promotion avenue available as per rules prescribed by Fire and Rescue Department. The petitioner has made averments that the G.O. Should give promotion to the officials after ten years who has served as fireman from the date of appointment is stoutly denied by the respondents. Moreover the department takes the excuse of there is no vacancy and hence no promotion is denied as false. The petitioner has made above said averments based on G.O.No.210, dated 11.03.2007 will not be applicable to Fire Service Department."

5.With reference to the promotions to other juniors, it is contended by the learned Additional Government Pleader that the writ petitioner was holding only LMV license and not holding the heavy vehicle license. Thus, he was not eligible for further promotion as per the Government orders in force.

6.This apart, the juniors were promoted in the year 2010, the writ petitioner was allowed to retire from service on 30.11.2013. The writ petition itself was filed after attaining the age of superannuation in the year 2014. The grievance regarding the promotions are to be redressed within a reasonable period of time, when the seniority lists are finalized or promotions are issued to the juniors. Contrarily, the writ petitioner cannot wait till his date of retirement and thereafter, filed a writ petition for grant of retrospective promotion. In the present case, the writ petitioner is a pensioner as of now and already many years lapsed. This apart, the writ petitioner was not holding the heavy vehicle driving license during the relevant point of time. He was found not eligible for promotion on par with other juniors. This being the factum, there is no infirmity as such in respect of the reasons stated in the impugned order and accordingly, the writ petition is devoid of merits and stands dismissed. No costs.

Sd/-

Assistant Registrar (Ad-II)

// True Copy //

Sub Assistant Registrar(CS)

sjj



To

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

2.The Additional Director of Fire and Rescue Services,
Tamilnadu, 17, Rukamani Lakshmiapatty Road,
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3.The Divisional Officer,
Office of the Divisional Officer of Fire and Rescue
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+1 CC to SPL GP SR-82841.

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CS (14.10.2019) 4P 5C