

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 03.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.14364 of 2013
and
M.P.Nos.1 & 2 of 2013

- 1.S.Arul Jothi
- 2.Rajendran
- 3.S.Vellaisamy
- 4.P.Kannan
- 5.R.Umapathy
- 6.G.Mayandi
- 7.S.Munirathinam
- 8.K.Soundarajan
- 9.R.Annamalai
- 10.D.Rajendran
- 11.T.Selvam

... Petitioners

- Vs -

- 1.State of Tamilnadu
Rep. By the Chief Secretary
Fort St. George,
Chennai 600 009.
- 2.The Principal Secretary
Home (Police 17) Department,
Fort St. George,
Chennai 600 009.
- 3.The Director of Fire & Rescue Services,
No.12, Rukmani Lakshmipathy Road,
Egmore, Chennai 600 008.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, to direct the respondents herein to pass appropriate orders to include Fireman/ Drivers in the C list along with the Leading Fireman for promotion to the post of Assistant Station Fire Officer and Station Fire Officer creating a uniform promotion way.

For Petitioners : No appearance
For Respondents : Mr.A.N.Thambidurai, Spl.G.P

ORDER

The writ petition was filed by the petitioners, to direct the respondents herein to pass appropriate orders to include Fireman/ Drivers in the C list along with the Leading Fireman for promotion to the post of Assistant Station Fire Officer and Station Fire Officer creating a uniform promotion way.

2.when the matter is taken up for hearing, there is no representation on behalf of the petitioners. Therefore, this Court proceeded to pass the order. However in view of the order which this Court proposed to pass, the absence of the counsel for the petitioners would be in no way a detriment to the case of the petitioners.

3.This Court perused the materials available on record. On perusal of the affidavit, it reveals that the petitioners have joined the Tamil Nadu Fire and Rescue Department in the year 1987, as fireman. As per the service rules, it provides for two channels for promotion under Channel -I-Fireman -Leading Fireman -Assistant Station Officer -Station Officer and so on. Under Channel II-Fireman - fireman driver - Driver Mechanic -Station Office (Transport). However the entry level for both the channels is Fireman and all the fireman are equally trained and are similarly qualified. The grievance of the petitioners is that after serving the department for 10 years as fireman, they were promoted as fireman driver, which is a stagnant post; however at that time they were not aware about the stagnation in the post of fireman, but for which they could have had the opportunity to become Deputy Director of the Department. Though they are similarly qualified as other fireman, their career advancement is handicapped due to a faulty policy of the department. The dichotomy was brought to the notice of the Government as early as 1995, the Government in G.O.Ms.No.1525 Home (Police XVII) Department dated 11.10.1995 had directed the 2nd respondent to send draft proposals for merging the two channels, however no action has been taken by the 2nd respondent or the Government to merge the various channels and to afford equal opportunity. The Government in G.O.Ms.No.325 Home (Police XVII) Department dated 14.05.2012 had directed that that in future only one category will exist for promotion from the level of fireman, all fireman will be trained in Driving before declaration of probation. As for existing personnel the number of posts of driver mechanic and Station Officer (Transport)

will be so regulated and this matter has also been taken up by the Government in the Legislative Assembly. Consequently the 2nd respondent has sent a draft proposal to the government to give equal opportunity to fireman driver, however no progress has been made in that direction, and the petitioners continued to be a fireman driver with no scope of promotion. Now that the 2nd respondent has sent a proposal there is a chance that they could get a meaningful promotion at par with fireman in Channel I. However the 3rd respondent has released a seniority list for leading fireman and in this list petitioners name was not found. They joined as fireman driver, from their initial date of joining to till this day, they are serving as fireman driver without any promotion. Therefore, challenging the said seniority list prepared by the 3rd respondent, this petition has been filed with the above said prayer.

4. Learned Special Government pleader appearing for the respondents submitted his contentions based on the counter affidavit, that for the station officer post the Feeder category is Assistant station officer/Leading Fireman. Hence the seniority list of Assistant station Officer/Leading Fireman was released for the year 2012-2013 by the second respondent vide its memorandum dated 12.04.2012. Since in G.O.Ms.NO.352 Home dated 14.05.2012 already 165 driver mechanic posts are upgraded as station officer (Transport) and thus over all 170 station officer (Transport) Post exists for the Feeder Category of Driver Mechanic, the Petitioners cannot compel or insist the respondent to include the petitioners name along with the leading fireman.

5. Further he submitted that the petitioners during the year 2012, the petitioners have given their non-willingness application for Driver Mechanic Post, hence their names were not considered. His juniors were given promotion as Driver Mechanic. The scope of promotion for Fireman Driver and Leading Fireman are equal, except few personnel in the cadre of leading fireman, who reached the level of Assistant Divisional Officer and in between these period most of them attained superannuation. As per G.O.Ms. No.352, Home, dated 14.05.2012, the Government did not order to publish the seniority list combined together, but it was order that seniority for elevation to the level of station officer or station officer (Transport) from the post of driver mechanic, the original seniority at the level of fireman has to be taken into account, and, therefore, the seniority list does not cause any prejudice to the petitioners, since they are holding the post of fireman driver and the same is not applicable for the petitioners. Further more, during the year 2012, the petitioners have given their

unwillingness for the post of driver mechanic, thereby they have no loco standi seeking quashment of the aforesaid seniority list.

6. Considering the facts and circumstances of the case, it appears that the petitioners have misunderstood the contents of the Government Order while filing this Writ petition. In the Government Order it was clearly stated that for the existing personnel the original seniority in Fireman post to be taken into account for elevation to the level of station officer or station officer (Transport); the government did not order to combine these two posts, however it is ordered that for giving promotion to these posts, for the existing personnel, the original seniority in fireman post to be taken into account. Without reaching the feeder category for promotion to the post of station officer (Transport) post, the claim of the petitioners for further promotion is wholly misplaced and, therefore, the relief sought for by the petitioners cannot be granted.

7. For the reasons aforesaid, this writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. However there shall be no order as to costs.

Sd/-
Asst. Registrar (CS III)

/true copy/

Sub Asst. Registrar

jrs
To

1. State of Tamilnadu
Rep. By the Chief Secretary
Fort St. George,
Chennai 600 009.

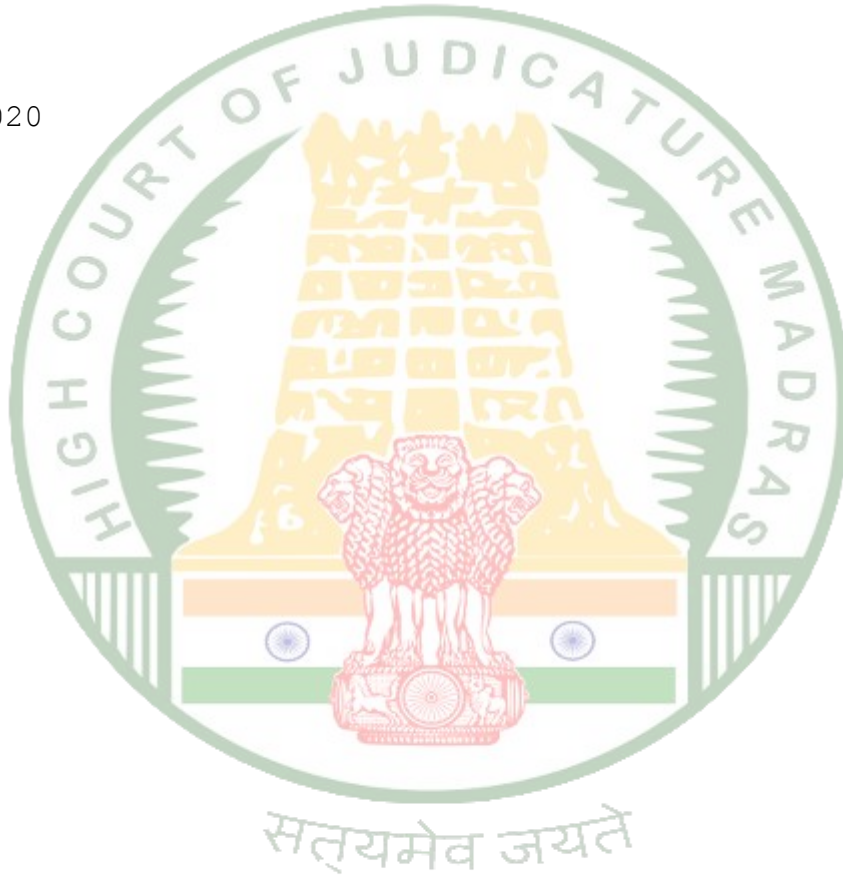
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3.The Director of Fire & Rescue Services,
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Egmore, Chennai 600 008.

+1 cc to the Government Pleader sr28978

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