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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Contempt Petition No.1100 of 2021

K.Selvan,
Leading Fireman 6764,
Fire and Rescue Station,
Tenkasi, Tirunelveli District

...Petitioner

Vs.

1 THIRU. S.K.PRABAKAR I.A.S.,
PRINCIPAL SECRETARY TO GOVERNMENT
HOME (POLICE) DEPARTMENT
SECRETARIAT FORT ST. GEORGE
CHENNAI - 600 009

2 THIRU. KARAN SINHA I.P.S.,
THE CHAIRMAN/DIRECTOR
STATE RECRUITMENT AND PROMOTION BOARD
DIRECTORATE OF FIRE AND RESCUE SERVICES
EGMORE, CHENNAI 600008.

3 THIRU. KARAN SINHA I.P.S.,
DGP/DIRECTOR FIRE AND RESCUE SERVICES
O/O. DIRECTORATE OF FIRE AND RESCUE SERVICES
EGMORE, CHENNAI 600008.

... Respondents

PRAYER : Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondents for wilfully disobeying the orders passed in W.P.No.125 of 2020 dated 06.01.2020.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.A.Selvendran
Special Government Pleader



ORDER

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This Contempt Petition has been filed to punish the respondents for wilfully disobeying the orders passed by this Court made in W.P.No.125 of 2020 dated 06.01.2020.

2.Pursuant to the orders passed by this Court on 07.10.2021, an affidavit was filed by the Director General of Police/Director of Fire and Rescue Services. The relevant portions in the affidavit are extracted hereunder:

“4. It is respectfully submitted that as per rule 2(a) of Tamil Nadu Fire Subordinate Service Rules the appointment to the post of Station Officer is made by following three ways:

(i) Direct recruitment

(ii) by Promotion from the rank of Leading Fireman category 2 of class II

(iii) by recruitment by transfer from the post of Assistant in Tamil Nadu Ministerial Service in the Department of Fire Service in the ratio of **4:5:1**, Provided that if no candidates are available for appointment by recruitment by transfer in any year, the vacancies reserved for the above method shall be filled by direct recruitment.

<https://hcservices.ecourts.gov.in/hcservices/> 5(a) There are 368 posts of Station Officers available for this



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purpose. As per the ratio of 4:5:1 the posts earmarked for appointment to station officer are as follows;

- i) By direct recruitment : 147
- ii) By promotion : 184
- iii) By transfer of service : 37

By clubbing (i) and (iii) there should be 184 station officers by direct recruitment and by transfer of service.

(b) At present there are 32 direct recruit Station Officers and 6 Station Officers appointed by transfer of service are working in the department. As per the ratio for the remaining direct recruit posts estimates have already been furnished to TNPSC for recruitment of 146 Station Officers under direct recruitment category and the TNPSC is in the process of conducting recruitment. Copy attached.

6) It is respectfully submitted that the issue of keeping large vacancies in the rank of Station Officer had been discussed in W.P.16216 of 28407 of 2018. In this connection it is respectfully submitted that the Hon'ble High Court in its order dated 15.02.2019 in W.P.No.16219 and 28407 of 2018 had observed the following:

“4.....that of 350 permanent post of Station Officers 170 posts are vacant. Out of 830 sanctioned posts of Leading Firemen



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500 post of Leading Firemen are vacant. Under these circumstances, the Department of Fire and Rescue Service is unable to cater the needs of the public at large. In the event of not granting promotions, the department will be in distress and may not be in a position to provide adequate services to the public at large, in the event of any unfortunate disaster or fire accidents.

5. Considering the arguments, the services of the Fire and Rescue Services Department are of paramount importance and the public services by the said department is vital one and there cannot be any lapses or lacunas on the ground that adequate number of staffs are unavailable in the particular cadre or posts.....”

7) I state that keeping huge vacancies (146) in the post of Station Officer will adversely affect the normal functioning of the Fire and Rescue Stations, the Leading Fireman were promoted as Station Officers temporarily as per the seniority under Section 47(1) of Tamil Nadu Government Servants (Conditions of Service) Act 2016 against the vacancies estimated for direct recruit Station Officers, subject to the condition that they will be reverted to the post of Leading Fireman as and when the direct recruits report for training. They cannot claim any right over such temporary promotions as they are promoted against the vacancies estimated for direct recruits for the administrative convenience. Even though they are promoted on a temporary basis their pay benefits are taken case of and their pay is fixed in the post of Station Officer. As and when they are reverted their pay will be refixed accordingly.

8) Therefore, it is clarified that there are temporary



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promotees in the post of Station Officer as they were promoted temporarily against the vacancies of direct recruits from time to time and their temporary promotion cannot be regularised as they will be reverted to the post of Leading Firemen once the direct recruits report for training.

9) I respectfully submit that in regard to the submission made by the learned counsel relating to training that only names of six persons in serial numbers 2,3,4,5,25,27 and 33 found in the list. It is submitted that Sl.Nos. (2) Thiru.G.Selvamani and (3) K.Raja had already completed training and result was published vide proceedings R.C.No.5891/C3/2020 dated 03.11.2020 of DGP/Director, Fire and Rescue Services, Egmore, Chennai 600 008. Similarly Sl.No.(33) M.Gunasekaran was exempted from training on medical grounds (He had paralysis attack) vide memo Rc.No.16247/C3/2020, dated 08.02.2021 of DGP/Director, Fire and rescue Services. T.Krishnamoorthy and K.Mani are the only two left over Station Officers in the regular list had reported for training. Since the Station Officers with left over service of less than one year were also called for to attend the training and there were typographical errors in the Joint Director, State Training Centre's, telephone message Rc.No.699/B/20201, dated 02.07.2021 the same officer has furnished a revised list of Station Officers for training. As per the revised list the names of Thiru R.Palanisamy and Thiru K.Mani in Sl.Nos.14 and 16 are included.

10)It is respectfully further submitted that the other Station Officers included in the regular panel drawn for promotion



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as per the orders of Hon'ble High Court and are in service have completed their training. The details of those completed training and retired are furnished as Annexure.

11)At present there are 258 Station Officers working in the department, who have been promoted temporarily under section 47(1) of Tamil Nadu Government Servants' (Conditions of Service) Act 2016 from time to time. Of these about 112 Station Officers have to undergo training for regularising their services in the post of Station Officer. Due to the Covid-19 pandemic situation they could not be sent for training. Since the Government lifted restrictions, 50 of them were sent for training but the training could not be continued as five Station Officers tested positive for covid-19 during the training. It could not be continued as five Station Officers tested positive for covid-19 during the training and the training was stopped. It is respectfully submitted that it has again been proposed to commence training for these station officers in the third week of November 2021. It is further submitted that once they complete their training consideration of including their names in the regular panel for the year 2020-2021 will be taken up. Further as discussed in previous paragraphs the remaining 146 Station Officers have been promoted temporarily from time to time under Section 47(1) of Tamil Nadu Government Servants' (Conditions of Service) Act 2016 against the vacancies of direct recruits subject to the condition that they will be reverted once the direct recruits report for training and they should not claim any right over such temporary promotions as they are promoted against the vacancies



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estimated for direct recruits for the administrative convenience.

12. It is respectfully submitted that those who have been promoted as Station Officers by drawing regular panel will alone be considered for further promotion to the post of Assistant District Officer, Station Officers, who have been promoted on a temporary basis under section 47(1) of Tamil Nadu Government Servants' (Conditions of Service) Act 2016, will become eligible for further promotion once their services the post of station Officer are regularised by bringing their names into the regular panel.

3. This Court is convinced with the stand taken by the respondents. It is made very clear in more than one place that the persons who have been temporarily promoted to the Post of Station Officer will be reverted back to the original position once the pendency is filled up with the regular appointees. This clarifies the apprehension raised by the petitioner.

4. The learned counsel for the petitioner brought to the notice of this Court the fact that there was a proposal for creation of supernumerary post and the names of the petitioners in the writ petition was also considered. The learned counsel further submitted that when this information was sought for under the Right to Information [RTI] Act, the same was refused to be handed over on the ground that the Writ Appeal No.448/2020, is pending and only after the disposal of the writ appeal, the petitioner can contact the concerned officer. The learned

counsel submitted that this Court can call for the said proposal for creation of



supernumerary post.

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5. In the considered view of this Court, even if the proposal is called for by the Court, nothing will turn out in the contempt petition. This Court is concerned about the compliance of the orders passed by this Court and the materials placed before this Court shows that the order has been complied with.

6. In view of the above, no further orders are required to be passed in this contempt petition. Accordingly, this contempt petition is closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

kp

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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GS/21/02/2022

To

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