



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.6585 of 2014

Gajendran

... Petitioner

Vs.

1. The Secretary to Government
Home Department
Government of Tamil Nadu
Secretariat,
Chennai - 600 009.
2. The Director of Fire and Rescue Department
College Road,
Chennai-8.
3. The Secretary,
Tamil Nadu Public Service Commission
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the representations given by the petitioner on 02.05.2013, 31.12.2013, 19.02.2014 and pay the arrears and monetary benefits by treat the Petitioner in Higher in Rank than the persons appointed under Group(III) Examination(PUC Standard).

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.J.Ramesh, AGP for R1 and R2
Mr.V.Govarthanan for R3

ORDER

Heard both sides and perused the records.

2.The prayer made in this writ petition is to issue a mandamus directing the respondents to consider the petitioner's



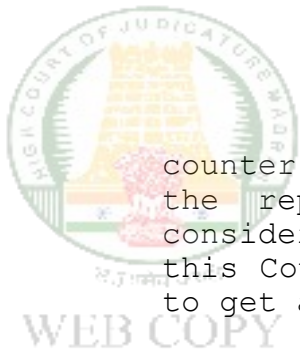
representations dated 02.05.2013, 31.12.2013 and 19.02.2014 and pay service and monetary benefits with arrears by placing him in higher rank than the persons appointed under Group III Examination (PUC standard).

WEB COPY

3. According to the petitioner, he was appointed as Fire Officer through TNPSC Group II in the year 1977-78 in the standard of degree. In the same year, 15 persons were selected through Group III Examination in PUC standard. The third respondent drew the seniority list combining both set of persons, instead of separate list and published in Bulletin No.12 dated 01.07.1979, as a result of which, the petitioner was placed in lesser in rank than the persons, who are appointed in PUC standard Group III Examination. On reaching the age of superannuation, he retired from service on 31.07.2011 as Divisional Fire Officer. Thereafter, he made representations dated 02.05.2013, 31.12.2013 and 19.02.2014 to the respondents 1 and 2 requesting them to revise his seniority and grant service and monetary benefits with arrears. Finding no response on the same, the petitioner has come up with this writ petition.

4. Upon notice, the respondents filed a detailed counter affidavit, wherein, it is inter alia stated that the seniority adopted in respect of the petitioner by the second respondent is correct and the same was maintained as per the rules and orders in force during the year 1977-1978 and based on the Tamil Nadu Public Service Commission Bulletin No.12 dated 01.07.1979; and the petitioner after enjoying all the benefits and promotions, claimed refixation of seniority fixed during the year 1979, by way of representation, which was already considered and was rejected by the first respondent vide Letter No.38218/Police-17/2003-6 dated 14.12.2005 and the same was also served on the petitioner vide second respondent's endorsement L.Dis.No.175/B1/2006 dated 04.01.2006 and suppressing the said fact, the petitioner filed the present writ petition. It is also stated that if the petitioner was really affected by the seniority fixed, he should have claimed the same within a period of 3 years as prescribed in Section 40(6) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, whereas he claimed the same only in the year 2003 i.e., after completion of 24 years and more over, he retired from service on attaining superannuation on 31.07.2011; an identical case in WP(MD) No.10933 of 2013 filed by one J.Jebakumar, was dismissed by this Court on 09.07.2013 on the ground of delay and laches and the writ appeal viz., WA(MD)No.903 of 2013 filed against the said order passed in the writ petition was also dismissed on 22.08.2013; and hence, the petitioner's claim cannot be entertained, on the ground of delay and laches.

5. In the light of the aforesaid averments made in the



counter affidavit filed by the respondents, more particularly, the representation submitted by the petitioner was already considered and ultimately, rejected by the first respondent, this Court is of the opinion that the petitioner is not entitled to get any relief in this writ petition.

6.Hence, this writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msv

To

1. The Secretary to Government
Home Department, Government of Tamil Nadu
Secretariat, Chennai - 600 009
2. The Director of Fire and Rescue Department
College Road, Chennai-8.
3. The Secretary, Tamil Nadu Public Service Commission
Chennai.

+lcc to Mr. D. RAJAGOPAL, Advocate, S.R.No.1018
+lcc to the Government Pleader, S.R.No.204

W.P.No.6585 of 2014

AKII(CO)
BE(15/07/2021)