



W.A.No.2468 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.12.2022**

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Writ Appeal No.2468 of 2018

A.Easuraj

.. Appellant/Respondent

Vs.

1.The State of Tamil Nadu represented by
Additional Chief Secretary to Government,
Home (Police XVII) Department,
Fort St. George, Chennai 600 009.

2. The Director of Fire Services,
T.N.Fire & Rescue Services Department,
Egmore, Chennai 600 008.

3. The Divisional Fire Officer,
Coimbatore & Nilgiris Division,
Coimbatore.

.. Respondents/Petitioners

Prayer: Writ Appeals filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P. No.1504 of 2018 dated 24.01.2018.



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For Appellant : Mr.M.Muthappan

For Respondents : Mr.G.Manmaran
Special Govt. Pleader

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The challenge in this Intra Court Appeal is to the dismissal of the Writ Petition filed by the petitioner seeking a Writ of Certiorarified Mandamus to call for the records relating to the first respondent proceedings dated 27.06.2012 and the further order passed on 24.10.2017, rejecting the request of the petitioner for reinstatement and to send him for training so as to enable him to pass the fitness test and grant all service benefits.

2. The petitioner was appointed as Fireman on 29.08.1996, subject to the condition that he should pass the fitness test after training. He failed in his attempt to clear the test in the year 1998. After issuing a show cause notice, the petitioner was discharged from service on 27.10.1998. This order was challenged by the petitioner in OA No.9030 of 1998 before the Tamil Nadu Administrative Tribunal. The said Application was transferred to this



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Court and numbered as WP No.33824 of 2006 and it came to be dismissed on 19.03.2010 on the conclusion that the petitioner who has failed to clear the test cannot seek further chances. It should also be pointed out at this juncture the petitioner was successful in getting the order of discharge stayed by the Tamil Nadu Administrative Tribunal and thereby continued to work till the disposal of the Writ Petition for nearly 12 years.

3. The Writ Appeal filed by the petitioner challenging the order in the Writ Petition was dismissed by the Division Bench on 16.04.2010. While dismissing the Writ Appeal, the Division Bench had observed as follows:

“Mr.Muthappan, submits that by now the appellant has put in nearly 14 years of service, may be, because of the injunction he obtained for this long service that he has put in. As far as this submission is concerned, the appellant may put it in a necessary application to the authorities concerned and it will be for the authorities concerned to consider the request when made.”



4. Taking advantage of this, the petitioner sought for reinstatement vide its letter dated 04.08.2010 followed by representations dated 24.01.2011, 31.10.2011 and 22.10.2011. The said request was rejected by the respondent on 27.06.2012, wherein it was specifically pointed out that the liberty given was only to seek benefits of the service for 14 years and not for reinstatement. Undaunted, the petitioner made several representations after making reference to similar cases. Finally, the authority rejected the request of the petitioner on 24.10.2017. It is this order along with the order passed on 27.06.2012 which were made subject matter of challenge in the Writ Petition in WP No.1504 of 2018 which came to be dismissed at the admission stage on 24.01.2018 leading to this appeal.

5. We have heard Mr.M.Muthappan, learned counsel appearing for the appellant and Mr.G.Nanmaran, learned Special Government Pleader appearing for the respondents.

6. Mr.M.Muthappan, learned counsel appearing for the appellant would contend that he had sought for revisitation of the order of discharge on the ground that similarly placed persons have been given an opportunity



and he had not invoked the liberty given by the Division Bench. We are afraid that the petitioner cannot be allowed to seek revisitation. The petitioner had challenged the order of discharge and he has lost the same. The Division Bench only granted liberty to him to seek benefits of the 14 years of service. However, the petitioner wanted to get reinstatement based on the liberty. Even though the learned counsel for the appellant would contend that he did not seek reinstatement on the basis of the liberty but he sought for reinstatement on the basis of the treatment meted out to similarly placed persons, the Writ Court had dismissed the Writ Petition on the ground that the liberty was given only for a limited purpose and it cannot be used to reopen the entire case.

7. Once the petitioner had challenged the order of discharge and that had attained finality, we do not think the Authorities have the power to even reopen or recall the said order, unless the liberty is granted to conduct such an exercise. A perusal of the order of the Division bench particularly the liberty granted would demonstrate that the Division Bench had not permitted the petitioner or the Authority either to seek reopening or to reopen the proceedings which ended in an order of discharge as early as



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8. We are therefore unable to fault the Writ Court for having dismissed the Writ Petition. The Writ Appeal fails and it is accordingly **dismissed**. There shall be no order as to costs.

(R.S.M., J.) (S.S.K., J.)
20.12.2022

Index: No
Internet: Yes
Speaking order
jv

To

1. The Additional Chief Secretary to Government,
Government of Tamil Nadu
Home (Police XVII) Department,
Fort St. George, Chennai 600 009.
2. The Director of Fire Services,
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and

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(jv)

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