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W.P.No.2627 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.2627 of 2022 and  
W.M.P.No.2778 of 2022

S.Chitra

... Petitioner

Versus

1.The Director,  
Tamil Nadu Fire and Rescue Services Department,  
Egmore, Chennai-600 008.

2.The District Fire Officer,  
Tamil Nadu Fire and Rescue Services Department,  
Gandhi Road, Periyar Nagar Road,  
Periyar Nagar, Erode-638001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of a writ, to call for the records on the file of the District Fire Officer, Tamil Nadu Fire and Rescue Service Department, Erode, the 2<sup>nd</sup> respondent herein in Pa.Vu.No.09/2022 Ku.Ku.No.03/2021, dated 20.01.2022 and to quash the same and consequently direct the respondents herein to reinstate the petitioner in service with all attending benefits and backwages.

For Petitioner : Mr.M.V.Krishnan

For Respondents : Mr.V.Jeevagiridharan,  
Additional Government Pleader



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## ORDER

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Challenging the punishment imposed by the disciplinary authority/2<sup>nd</sup> respondent *vide* order, dated 20.01.2022 in Pa.Vu.No.09/2022 Ku.Ku.No.03/2021, this Writ Petition has been filed by the petitioner.

2.The crux of the charge is that the petitioner was appointed as Junior Assistant in the office of the 2<sup>nd</sup> respondent on 01.07.1990 on compassionate ground and posted in the office of the Deputy Director of Fire Service, Coimbatore and thereafter, she was transferred from Dindigul to Erode District. The 2<sup>nd</sup> respondent has transferred the petitioner from Erode to Namakkal on 17.12.2020 *vide* Na/Ka/No.132/E3/2020. Challenging the same, a Writ Petition was filed by the petitioner in W.P.No.1535 of 2021 and the same was dismissed by this Court on 20.06.2022. Despite the petitioner was transferred to Namakkal, she did not join the duty and unauthorizedly absent from 18.12.2020 to 25.02.2021 and later given medical certificate for those days. Further, the petitioner did not join duty in the new station and therefore, the departmental proceedings has been conducted and an *exparte* final order has been passed holding that the petitioner has not cooperated with the departmental proceedings despite



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receipt of notice and finally, the order of compulsory retirement from the service has been passed by the 2<sup>nd</sup> respondent *vide* order, dated 20.01.2022 in Pa.Vu.No.09/2022 Ku.Ku.No.03/2021, which is under challenge.

3.A counter has been filed by the respondents to the effect that despite the transfer order has been passed, the petitioner has not joined duty in new station. Though several notices have been sent to appear for departmental proceedings, the same has not been received by the petitioner deliberately. Hence, the order of compulsory retirement has been passed by the 2<sup>nd</sup> respondent.

4.Today the learned counsel for the petitioner has filed an affidavit before this Court stating that she is ready and willing to join duty and she will cooperate with the departmental enquiry and one more chance may be given. The affidavit, dated 14.08.2023 is taken on record.

5.Heard both sides and I have perused the entire materials available on records.



6.The 2<sup>nd</sup> respondent has imposed major punishment i.e., compulsory retirement based on the departmental enquiry conducted in the absence of the petitioner and without giving opportunity. Though it is the stand of the respondents that several notices have been sent for appearance of the petitioner and the same have not been received deliberately, this Court is of the view that the nature of the notices sent does not indicate the stand taken by the respondents.

7.Since the petitioner has not defended the departmental proceedings and no opportunity was given, this Court is of the view that it is a clear case of violation of principle of natural justice.

8.Considering the fact that the punishment imposed by the 2<sup>nd</sup> respondent is severe and that would affect the carrier of the petitioner, this Court is inclined to give one more opportunity to the petitioner to defend the departmental proceedings. Accordingly, the impugned order, dated 20.01.2022 passed by the 2<sup>nd</sup> respondent in Pa.Vu.No.09/2022 Ku.Ku.No.03/2021 stands quashed and the matter is remitted back to the 2<sup>nd</sup> respondent to conduct fresh enquiry on the same set of charges and the



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enquiry shall be completed, within a period of four months, from the date of receipt of a copy of this order.

9.The petitioner is directed to cooperate with the departmental enquiry. In the event, if any dilatory tactics adopted by the petitioner, the 2<sup>nd</sup> respondent may proceed with the departmental enquiry and pass exparte order once again. In such case, the petitioner cannot challenge the same on the ground of violation of principle of natural justice.

10.With the above directions, this Writ Petition stands disposed of.  
No costs. Consequently, the connected Miscellaneous Petition is closed.

14.08.2023

Index : Yes/No  
Internet: Yes/No  
Neutral Citation: Yes/No  
Speaking Order/Non-Speaking Order

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To

1.The Director,  
Tamil Nadu Fire and Rescue Services Department,  
Egmore, Chennai-600 008.



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N.SATHISH KUMAR, J.

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2.The District Fire Officer,  
Tamil Nadu Fire and Rescue Services Department,  
Gandhi Road, Periyar Nagar Road,  
Periyar Nagar, Erode-638001.

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