



W.P.No.22816 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:26.06.2023

Delivered on: 14.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.22816 of 2016

V.Raju

... Petitioner

Vs

1.The Secretary To Government
Home Department
Secretariat,
Fort St.George
Chennai-600 009

2.The Director
Fire and Rescue Services
Egmore
Chennai-600 008

3.The District Officer
Fire and Rescue Services
Salem District
Salem-16

4.P.Masanamuthu



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5.A.Muralidharan

6.A.K.Palani

7.A.Hassan Mia

8.G.Rajendiran

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for records pertaining to the 2nd respondent's proceedings Na.Ka.No.19854/B1/2015 dated 13.01.2016 pertaining to the post of Superintendent of the year 2015-2016, quash the same and direct the 2nd respondent to prepare revised seniority list in the post of Superintendent after rectifying the defects in the Assistant panel for the year 1999-2000.

For Petitioners : Mr.R.Dhamodaran

For Respondents : Mrs.Meera Arumugam, AGP for R1 to 3

Mr.M.Manivasagam for R4 to 8

ORDER

The petitioner has filed the present Writ Petition seeking to quash the impugned proceedings dated 13.01.2016 on the file of the 2nd respondent and to consequently direct preparation of a revised seniority list for the year 1999-2000.



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2. Facts in brief as set out by the petitioner in the affidavit filed in support of the Writ Petition are that, he was selected by the Tamil Nadu Public Service Commission for appointment as Typist. He joined services on 12.12.1994 and his name was included in the 'C' list prepared by the 2nd respondent on 15.03.1999 in the panel for promotion as Assistant for the year 1999-2000. The petitioner also joined as Assistant thereafter on 04.05.2000 and was working in the said post till 30.11.2001. In the meantime, the 2nd respondent appointed 15 Firemen as Junior Assistants cum Typists by way of recruitment by transfer from the Tamil Nadu Fire Subordinate Service. It is the case of the petitioner that there is a bar for recruitment by transfer from categories, exceeding 20% of vacancies in each of the categories of Junior Assistants/Typists and without assessing or arriving at the total vacancies, the 2nd respondent appointed the said 15 Firemen. According to the petitioner, the newly recruited Firemen did not complete their mandatory training at Bhavani Sagar as required under R.8(A) of Annexure V of the Rule 34 of the Tamil Nadu Ministerial Service Rules. Subsequently, G.O.Ms.No.910 Home (Police-17) department dated 20.09.2001 split the 15 Firemen 14 as typists



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and one as Junior Assistant and regularised their service from the date of their respective joining, without directing the 2nd respondent to re-regularize them based on the sanctioned strength of the respective posts. Though the 15 Firemen were not qualified and appointed much after the petitioner was promoted as Assistant, their services were regularised retrospectively and given effect to and the petitioner was demoted as typist as 30.11.2001. It is the case of the petitioner that though he made several representations to the 2nd respondent, the 2nd respondent has not taken any action to set right the defects and violation of rules and therefore the petitioner has filed the present Writ Petition.

3. The case pleaded by the petitioner for filing the Writ Petition belatedly is that the 2nd respondent was releasing a panel for the post of Superintendent for the year 2015-16, which was a consequential violation by the 2nd respondent which can be traced back to the original mistake committed by them for the panel year 1999-2000 and the application of G.O.Ms.No.910 dated 20.09.2001.



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4.The respondents have filed counter. The 2nd respondent Director of Fire and Rescue Service stated that the Writ Petition was not only belated but even otherwise the relevant Government orders have been strictly adhered to and the petitioner cannot have any grievance. The 4th respondent has filed a counter stating that the petitioner is 4 years junior to him and relying on the said G.O.Ms.No.523 dated 04.06.1982, the 4th respondent submits that the petitioner cannot claim to be placed above the 4th respondent. It is also stated that the petitioner has accepted the seniority list and was estopped from disputing the same, that too after 15 years.

5. Similar counters have been filed by respondents 5,6,7 and 8. At the outset the common ground of attack on the Writ Petition is that it is belated and liable to be dismissed on the ground of laches.

6. In this regard, learned counsel for the petitioner would submit that it is only a mistake of fact which can be corrected by the 2nd respondent at any point of time. The petitioner approached the Court when the 2015-16 list was



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being prepared for promotion and therefore delay and laches cannot be put against the petitioner. However, this Court is unable to accept the submission of the learned counsel for the petitioner. First and foremost, when he was admittedly reverted to the post of Typist on 30.11.2001, he was fully aware of the proceedings. Even assuming for a moment, as contended by the counsel for the petitioner, it was mistake of fact, even then the petitioner accepted the reversion and he did not challenge the same. It is also seen from the counter affidavits of respondents 5 to 8 that the petitioner was fully aware of all the promotions being given in the department and he never chose to question the same at any point of time. It is also seen from the counter of the 2nd respondent that the petitioner has been looking after the establishment seat in the office of the District Officer Fire and Rescue Services, Salem and he received all the promotional list copies right from the year 2006 till date despite the same the petitioner has approached this Court belatedly. There is considerable force in the said submission of the 2nd respondent which is also backed by similar arguments on the ground of delay and laches on the part of the private respondents 5 to 8. The petitioner cannot feign ignorance of the



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actions taken by the 2nd respondent. The petitioner has been reverted as a Typist as early as in 2001. He has accepted the said action of the 2nd respondent and it is too late in the day for the petitioner to approach this Court and allege that there has been a mistake of fact warranting interference by way of a Writ. The petitioner has not satisfactorily and sufficiently explained the inordinate delay and clearly the Writ Petition is liable to be dismissed on the ground of laches, especially taking into account the petitioner's own conduct in accepting the reversion way back in 2001 and taking no further action thereafter.

In fine, there is no merit in the Writ Petition and the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

14.07.2023.

Internet: Yes
Index: Yes/No
Neutral Citation: Yes/No
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Pre-delivery order in
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