



W.A.Nos. 448 of 2020 and 2798 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.A.Nos.448 of 2020 and 2798 of 2021
and C.M.P.Nos.6866 of 2020 & 7081 of 2023**

W.A.No.448 of 2020

1.M.Elangovan
2.S.Subbiah

... Appellants

-Vs-

- 1 State of Tamil Nadu represented by
Secretary to Government, Home (Police XVII
Department), Fort St.George, Chennai 600 009.
- 2 The Chairman/ Director
State Recruitment and Promotion Board
Directorate of Fire and Rescue Services
Egmore Chennai - 600006
- 3 Director of Fire and Rescue
Services O/o. Directorate of Fire and
Rescue Services Egmore Chennai - 600008
- 4 Joint Director Northern
Region O/o. Directorate of Fire and Rescue
Services Egmore Chennai - 600008
- 5 Deputy Director North
Western Region Fire and Rescue Service
Department Vellore
- 6 R.Rolan
- 7 V.Dhinakar
- 8 T.Mookaiah
- 9 S.Tangasamy



W.A.Nos. 448 of 2020 and 2798 of 2021

- 10 J.Vijayan
- 11 S.Janarthanam
- 12 B.Selvam
- 13 Rajasekaran
- 14 R.Ramesh Babu
- 15 R.Udayakumar
- 16 K.P.Venkatesan
- 17 C.Raja
- 18 S.Arunagiri
- 19 S.Anbalagan
- 20 G.Ragupathi
- 21 D.Kamal Basha
- 22 S.Ramesh Kumar
- 23 V.Murugan
- 24 P.Panneer Selvam
- 25 S.Rajendran
- 26 B.Mathappan
- 27 M.Ravikumar
- 28 R.Ramesh
- 29 M.Murugadhas
- 30 T.Murugiah
- 31 M.Karunanithi
- 32 R.Neelakandan
- 33 B.Amirthalingam
- 34 D.Manickam
- 35 B.Jawahar
- 36 M.Johnson
- 37 M.Shanmugam
- 38 R.Murugesan
- 39 M.Baskar
- 40 M.Ramasubramanian
- 41 A.Ramaschandran
- 42 V.Edwin
- 43 A.Vijayan
- 44 K.Selvan
- 45 C.Nandakumar
- 46 J.D.Prasanna
- 47 E.Muthu
- 48 P.Ramesh
- 49 V.Parasuraman
- 50 S.Inbaraj

... Respondents



W.A.Nos. 448 of 2020 and 2798 of 2021

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in W.P.Nos.16219 of 2018 and 28407 of 2018 dated 19.02.2020.

For Appellants : Mr.G.Sankaran
For Respondents : Mr.S.Silambanan, Additional Advocate General
Assisted by Mr.Murali, Government Advocate &
Mr.Babu Barveez, Government Advocate and
Mr.K.V.Sajeev Kumar, Special Government Pleader
- for RR 1 to 5
Mr.S.Ambigapathi for R13, R15 & R18
Mr.M.Ravi for R.40
R6, 8 to 12, 14, 16, 17, 20, 21, 24 to 26, 28 to 30
34 to 39, 41 to 45 - served no appearance
RR 46 to 50 - Given up v
RR7, 19, 31 to 33, 37 and 38 - Paper publication

W.A.No.2798 of 2021

M.Ramasubramanian

... Appellant

-Vs-

- 1 J.D.Prasana
- 2 E.Muthu
- 3 P.Ramesh
- 4 V.Parasuraman
- 5 M.Elangovan
- 6 S.Subbiah
- 7 S.Inbaraj
- 8 State Of Tamil Nadu
Rep. Secretary To Government Home (Police
XVIII) Department Fort St. George Chennai -
600009.
- 9 The Chairman/ Director
State Recruitment And Promotion Board
Directorate Of Fire And Rescue Services
Egmore Chennai - 600006
- 10 Director Of Fire And Rescue
Services O/o. Directorate Of Fire And
Rescue Services Egmore Chennai - 600008.



W.A.Nos. 448 of 2020 and 2798 of 2021

- 11 Joint Director Northern Region
O/o Directorate Of Fire And Rescue
Services Egmore Chennai 08.
- 12 Deputy Director, North Western Region
Fire And Rescue Service
Department Vellore.
- 13 R.Rolan
14 V.Dhinakaran
15 T.Mookaiah
16 Thangasamy
17 J.Vijayan
18 B.Janarthanam
19 B.Selvam
20 Rajasekaran
21 R.Ramesh Babu
22 R. Udaykumar
23 K.P.Venkatesan
24 C.Raja
25 S.Arunagiri
26 A.Anbalagan
27 G.Raghupathi
28 D.Kamal Basha
29 S.Ramesh Kumar
30 V.Murugan
31 P.Paneer Selvam
32 S.Rajendran
33 B.Mathappan
34 M.Ravikumar
35 R.Ramesh
36 M.Murugadhas
37 T.Murugiah
38 M.Karunanithi
39 R.Neelakandan
40 B.Amrithalingam
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42 B.Jawahar
43 M.Johnson
44 M.Shanmugam
45 R.Murugesan
46 M.Baskar
47 A.Ramaschandran



W.A.Nos. 448 of 2020 and 2798 of 2021

48 V.Edwin
49 A.Vijayan
50 K.Selvan
51 C.Nandakumar

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in W.P.No.16219 of 2018 dated 19.02.2020.

For Appellant	:	Mr.M.Ravi
For Respondents	:	Mr.S.Silambanan, Additional Advocate General Assisted by Mr.Murali, Government Advocate & Mr.Babu Barveez, Government Advocate and Mr.K.V.Sajeev Kumar, Special Government Pleader - for RR 8 to 12 Mr.G.Sankaran, Senior Counsel for Mr.S.Nedunchezian - for R5 and R6 Mr.S.Ambigapathi - for R20, 22 and 25 RR 1 to 4, 7, 13, 15 to 19, 21, 23, 24, 27, 28 30 to 33, 35 to 37, 40 to 48, 50 & 51 - served no appearance

COMMON JUDGMENT

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

These two writ appeals, since arise out of the common order passed by the writ Court made in W.P.Nos.16219 of 2018 and 28407 of 2018, with the consent of the learned counsel appearing for both sides, were heard together and are disposed of by this common order.

2. The appellants in both the appeals as well as the private respondents were initially enlisted as Fireman in the Tamil Nadu Fire and Rescue Services (In short 'the



W.A.Nos. 448 of 2020 and 2798 of 2021

Service'). Initially, the method of initial appointment / enlistment of the Fireman, which is the entry level post in the Service was made through the candidates sponsored by the respective Employment Exchange. Subsequently, at one point of time ie., in 1996, the said Service has been brought under the purview of the Tamil Nadu Uniformed Services Recruitment Board (henceforth would be called as the 'Board'). Accordingly, these people, along with several thousands of persons have been selected and appointed as Fireman, which is the initial entry level post in the said Services.

3. At that time, their services were governed by the Tamil Nadu Fire and Rescue Services Subordinate Services Rules (In short 'the Rules') where, under Rule 1, under the heading Constitution, the posts called Driver Mechanic and Welder, Leading Fireman, Fireman Driver and Fireman Mechanic, Fireman Carpenter etc., are Class-II category posts and the posts called Assistant Divisional Fire Officer and Station Fire Officer and Station Officer (Transport) are Class-I category posts.

4. In Rule 2, how appointment should be made to various Classes and Categories was specified. In Rule 2(b), how the promotion to the post shall be made has been stated. The relevant Rules are extracted herein for better appreciation.

" 2. Appointment : (a) Appointment to various classes and categories shall be made as specified in Annexure I.



(b)(i) Promotion to the following posts shall be made on grounds of merit and ability, seniority being considered only where merit and ability are approximately equal:-

- (1) Assistant Divisional Fire Officer*
- (2) Station Fire Officer and Station Officer (Transport)*
- (3) Driver Mechanic and Welder*
- (4) Leading Fireman*
- (5) Fireman Driver and Fireman Mechanic*
- (6) Fireman Carpenter*

(ii) Promotion shall be made from a list of qualified candidates suitable for promotion, prepared on a statewide basis in respect of each of the posts mentioned in items (1) and (2) above. The list shall be prepared on a Divisional basis in respect of the posts mentioned in items (3) to (6) above. State promotion lists shall be prepared by the State Recruitment and Promotion Board. The Board shall consist of the Director of Fire Service who will act as its Chairman and the Deputy Director of Fire Service, Northern and Southern Regions who will be its members. In the absence of a Deputy Director of the Fire Service, the Director of Fire Service shall be the member of the said Board. The Divisional Promotion list shall be initially prepared by the Divisional Fire Officer concerned assisted by the respective Assistant Divisional Fire Officer and be finally approved by the Deputy Director of Fire Service.

(c) The list of Leading Fireman fit for promotion as Station Fire Officer, shall consist of those who satisfy the following conditions namely:-

- (1) They must have a working knowledge of English; and*
- (2) They must have completed a total service for a period of seven years and must have served as Leading Fireman, whether permanent or officiating for a period of not less than two years.*



W.A.Nos. 448 of 2020 and 2798 of 2021

(d) The list of Fireman, Fireman Orderly, Fireman Messenger, Fireman Labourer, Fireman Sentry and Fireman Attendant fit for promotion as Fireman, Driver shall consist of those who satisfy the following conditions, namely:-

- (1) They must have put in service for a period not less than three years.*
- (2) They must undertake to refund to Government the expenditure incurred on their training in the event of their leaving the service at their request at any time within ten years after completion of their training.*

*(e) **Preparation of annual list of approved candidates:** For the purpose of drawing up of the annual list of approved candidates for appointment by promotion or recruitment by transfer to posts in the service, the crucial date on which the candidates should be qualified shall be 15th July of every year."*

5. In Rule 2(b)(ii) it has been made clear that the promotion shall be made from a list of qualified candidates suitable for promotion prepared on a statewide basis in respect of each of the posts mentioned in items (1) and (2) above ie., the posts called Assistant Divisional Fire Officer and Station Fire Officer and Station Officer (Transport). The Rule further says that the list shall be prepared on a Divisional basis in respect of the posts mentioned in Item Nos.3 to 6 above ie., posts called Driver Mechanic and Welder, Leading Fireman, Fireman Driver and Fireman Mechanic and Fireman Carpenter.



W.A.Nos. 448 of 2020 and 2798 of 2021

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6. Therefore, it has been made clear under the Rule that the two posts viz., Assistant Divisional Fire Officer, Station Fire Officer, promotion shall be made based on the statewide seniority prepared among the feeder category; for the rest ie., the other three categories, Driver Mechanic and Welder, Leading Fireman, Fireman Driver and Fireman Mechanic and Fireman Carpenter, promotion shall be given from the feeder category for which the seniority list shall be prepared Division wise.

7. Based on this Rule, those who were enlisted as Fireman, which is the entry level post having been considered and based on the seniority also, with merit and ability by having a quality check, by way of oral test or examination, some of them have been given promotion to the post of Leading Fireman.

8. Subsequently, it was felt widely by the Service that, because of the Division wise seniority being followed for preparing the seniority panel for promotion to the three posts viz., Leading Fireman, Driver Mechanic and Welder and Fireman Driver etc., in some of the Divisions, depending upon the vacancy position, they may earn promotion early and in some of the Divisions, for want of vacancy, they may not earn such promotion quickly. In the result, in some Divisions, taking into account the date of initial appointment, some juniors would earn promotion and some of the seniors would have stagnated.



W.A.Nos. 448 of 2020 and 2798 of 2021

9. In order to avoid the said stagnation in promotion, it was felt needed that, like the Class-I posts viz., Assistant Divisional Fire Officer, Station Fire Officer etc., for the other three posts which are Class-II posts, instead of Divisional wise seniority, if statewide seniority is adopted, certainly such kind of stagnation in promotion to the next higher category from the initial category might not have been occurred.

10. In this context, sensing the move of the Government to convert it into the statewide seniority, a writ petition was filed in W.P.(MD) No.13550 of 2012, where the stand taken by the Department was that, they decided to bring statewide seniority for all such posts for promotion, including the post of Leading Fireman from the feeder category Fireman and the said stand taken by the Department was taken note of by the writ Court (single Judge, R.SURESH KUMAR, J.) and ultimately that writ petition was disposed of, recording the statement of the State Government, on 06.04.2018.

11. Pursuant to the same, the Government had come forward to make amendment to the Rules under Article 309 of the Constitution and issued the amendment in G.O.Ms.No.179, Home Department dated 20.03.2019, notifying the same on 27.03.2019.



W.A.Nos. 448 of 2020 and 2798 of 2021

12. Under the amended Rule, the first amendment would come into effect from 02.07.2001 and the second amendment would come into effect from 25.11.2013. Those two amendments only relate to change of nomenclature. Therefore, we are not concerned with those two amendments. Insofar as third amendment is concerned, under Clause 2(3) of the amended Rule, it has been made clear that, all other amendments hereby made, shall come into force with effect from the date of publication in the Tamil Nadu Government Gazette. Therefore, except amendments 1 and 2, all other amendments would come into effect from the date of notification in the Gazette ie., 27.03.2019.

13. As per the said amendment, ie., the amended Rule 4, three entries have been included viz., Category 1 - Driver Mechanic, Category 2 - Leading Fireman and Fireman Driver and Category 3 - Fireman. In amended Rule 5(ii) it is stated that the promotion shall be made from a list of qualified candidates suitable for promotion, prepared on a statewide basis in respect of all the above posts.

14. In respect of all the above posts means, the three categories of posts viz., Driver Mechanic, Leading Fireman and Fireman Driver and also the Fireman. Therefore, for making promotion to any of such category, the feeder category must have the statewide seniority among them.



W.A.Nos. 448 of 2020 and 2798 of 2021

15. In the meanwhile, as per the existing Rules ie., before the amended Rule came into effect, since preparation of seniority list for the post from Leading Fireman to Station Fire Officer, has been undertaken by the Department, some of the Leading Fireman came before this Court and filed the said writ petitions with a prayer of Mandamus seeking a direction to the respondent Department to constitute the State Recruitment and Promotion Board under Rule 2(b)(ii) of the Rules for selecting qualified Leading Fireman only for the post of Station Fire Officer for being promoted in the existing vacancies for the panel year 2016-17 and 2017-18 and also for the vacancies for the panel year 2018-19 from the selected Leading Fireman on the basis of statewide seniority list approved on 25.02.2015.

16. The said writ petitions, when came to be considered by this Court on 19.02.2020, since the Rule has already been amended with effect from 27.03.2019, the Government stated before the writ Court that, since the Rule got amended, under which all the posts were brought under the statewide seniority. Therefore, for the promotion even from Fireman to Leading Fireman, statewide seniority of Fireman have to be prepared and from among them, based on the seniority, of course by considering the merit and ability, promotions have to be given and thereafter, even for the Leading Fireman also, such a statewide seniority would be prepared, based on such promotion being given from Fireman to Leading Fireman, applying the amended Rule, and thereupon further promotion to the post of Station Fire Officer would be given from among the eligible candidates of Leading Fireman.



W.A.Nos. 448 of 2020 and 2798 of 2021

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17. Making these submissions, in fact the Government had placed a draft seniority list of Leading Fireman before the writ Court. Hearing both the parties and after taking note of the fact that even a draft seniority list of Leading Fireman also has been prepared by the Government, of course by applying the amended Rule, taking into account the statewide seniority of Leading Fireman and Fireman, the learned Judge took the view that, let the draft seniority list be published, against which if there is any grievance for the writ petitioners or any other similarly placed persons, they can state their grievances by giving written objection / representation to the Department and that shall be considered based on which the final selection list of statewide seniority be published.

18. In this context, it appears to be the grievance of the petitioners, who are the appellants herein that, in Para 30 of the impugned order, the learned Judge has stated that it is an admitted fact that in respect of the vacancies arose during the years 2016-17, 2017-18 and 2018-19, as of now, no regular panel has been prepared and consideration has not been shown. However, the rule was amended with effect from 27.03.2019. Now, the revised State wide seniority list is to be finalised and thereafter, all the eligible persons are to be considered for promotion to the post of Station Fire Officer, strictly in accordance with the amended Rule and by following the revised statewide seniority list, which is to be finalised.



W.A.Nos. 448 of 2020 and 2798 of 2021

19. However, stating this, the learned Judge has given the following directions.

"31.This being the factum, the following orders are passed:

(1) The relief as sought for in the writ petitions stand rejected.

(2) The respondents R1 to R5 are directed to circulate the Draft State Vide Seniority List now placed before this Court, by publishing the same in the Notice Boards of all the Fire Service Offices across the State of Tamil Nadu and call for objections from the employees concerned. The said communication is directed to be made within a period of one(1) week.

(3) All the petitioners, impleaded respondents and all other employees concerned are at liberty to submit their respective objections with reference to the State Vide Seniority List within a period of fifteen (15) days from the date of Publication of the Draft State Vide Seniority List in their respective offices.

(4) On receipt of the objections, if any submitted to the competent authority, the authorities competent are bound to consider the objections with reference to the amended rules and based on the service particulars of the individual employees and thereafter, publish the final State Vide Seniority List within a period of six(6) weeks therefrom.

(5) After publication of the final State Vide Seniority List, the respondents R1 to R5 / competent authorities are bound to prepare the regular panel for promotion to the Post of Station Officer and accordingly, grant promotions strictly in accordance with the amended rules and with reference to the service particulars of the individual employees.

(6) At the time of granting regular promotions, the temporary promotions already granted to the employees are to be reviewed in consonance with the State Vide Seniority List and all suitable orders are



W.A.Nos. 448 of 2020 and 2798 of 2021

to be passed without causing any undue delay.

(7) The respondents R1 to R5 are directed, not to revert the employees already working in the cadre of Leading Fireman on account of the revision of the State Vide Seniority List. It is made clear that the service rights in respect of the present post, in which, such employees are working, are to be protected.

32. Accordingly, the Writ Petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed."

20. Aggrieved over the said directions issued by the writ Court, directing the Department to prepare statewide seniority list by applying the amended Rule in the category of Fireman and Leading Fireman, taking into account of those who have been enlisted irrespective of some of them who have already been promoted from Fireman to Leading Fireman by virtue of the existing or unamended rule as, some of them already worked for some years certainly would be pushed back of their juniors in that category and therefore, in order to redress the anomalies having aggrieved over the directions given by the learned Judge permitting the Government to prepare the statewide seniority list and proceed for promotion, these intra court appeals have been filed.

21. In the intra court appeals, some of the co-petitioners before the writ Court have been impleaded. In fact those respondents ie., respondents 46 to 50 in W.A.No.448 of 2018 have been given up. Respondents 6 to 36 are Fireman and respondents 37 to 45 are Leading Fireman. These respondents were subsequently



W.A.Nos. 448 of 2020 and 2798 of 2021

impleaded by themselves to support the case of the Government to prepare statewide seniority list and respondents 37 to 45, though were Leading Fireman, got impleaded to support the fellow writ petitioners ie., Leading Firemen like the petitioners. That is how the parties have been arrayed and these appeals have been preferred.

22. Majority of the private respondents have been served and learned counsel appeared on behalf of some of the contesting respondents. Since the grievance that has been placed before this Court for redressal is a common grievance, we felt that on behalf of such private respondents, the submissions made by the learned counsel for some of the private respondents can be taken into account. With this background, these appeals were placed before us.

23. It is to be noted that the Service is governed by the Rules, where in the first category ie., (1) and (2), ie., Assistant Divisional Fire Officer and Station Fire Officer and Station Fire Officer (Transport), were Class-I posts and in respect of those posts or category of posts, promotion shall be given from the feeder category by preparing a statewide seniority list. For rest of the posts which form part of Class-II posts in Categories 1, 2 and 3 etc., including Leading Fireman, promotion shall be given from the feeder category post on the Division wise seniority. This is the Rule that was in existence till the amendment came into effect from 27.03.2019.



W.A.Nos. 448 of 2020 and 2798 of 2021

24. Therefore, as per the existing Rule or unamended Rule, the Division wise seniority list was prepared among Fireman promotions were given to the post of Leading Fireman. All these appellants and other co-petitioners who were given such promotion as Leading Fireman had been working for some years, some of them earned Selection Grade also in that category. When their due has come to be further promoted as Station Fire Officer or Station Officer and the said preparation of the panel since was delayed from 2016 onwards, they approached this Court seeking for a Mandamus. However, the writ petition, when was pending, the Government thought it fit to make an amendment to the Rule. That is how the amendment has come in.

25. The amended Rule, admittedly has come into effect from 27.03.2019. First amendment came into effect on 02.07.2001 and the second amendment came into effect on 25.11.2013 and those were only change of nomenclature. Insofar as the other amendments are concerned, it has been made very clear that those amendments shall come into force from the date of publication in the Tamil Nadu Gazette. The date of publication was 27.03.2019 and therefore all other amendments have come into effect from 27.03.2019.

26. For the three categories viz., Driver Mechanic and Welder, Leading Fireman and Fireman Mechanic, hitherto ie., before amendment, Divisional wise seniority alone shall be prepared for promotion from the feeder category. However,



W.A.Nos. 448 of 2020 and 2798 of 2021

after the amendment, respect of those categories also, like the Class-I category, statewide seniority shall be taken into account for the purpose of promotion from the feeder category. This has been specifically amended in the amended Rule.

27. But, it must be noted that, in such amendments, including these amendments, where the Government / Department was empowered to prepare the statewide seniority, that should be taken into account only from 27.03.2019. The meaning being, whatever promotion that has been made by applying the existing Rule prior to 27.03.2019 and by virtue of that, whoever earned such promotion and enjoyed such promotion, cannot be touched upon and that is the reason why the Rule making authority, who made the amendments under Article 309 has very consciously in Rule 2(iii) of the amended Rule has made it very clear that all other amendments shall come into effect from the date of publication in the Tamil Nadu Government Gazette.

28. Therefore, their intention is very clear that by virtue of this amendment on application of this amended rule if the statewide seniority list is prepared, that naturally was to be prospective and not retrospective. Otherwise, the promotion already earned by several persons by virtue of the existing Rule would get affected and that will obviously affect a number of people like the present appellants.



W.A.Nos. 448 of 2020 and 2798 of 2021

29. When that being the position, when the issue was projected before the learned Judge, it was the stand taken by the Department / Government that, when implementing the amended Rule, unmindful of the restrictions that has been made under Rule 2(iii), that such amendment shall have only the prospective effect, they claimed to have made a draft statewide seniority list for all posts including Fireman as well as Leading Fireman and when the list was placed before the learned Judge, the learned Judge had taken a view that, if at all there is any grievance for these people, who already earned promotion by virtue of the earlier rule or unamended rule ie., as per the Division wise seniority, they can make their objections and the said direction was also given, as quoted herein above.

30. In this context, the learned Judge has not considered as to whether the Government/Department are empowered to apply the amended Rule retrospectively, thereby the promotion already earned by so many people to next higher post ie., Fireman to Leading Fireman or Leading Fireman to Station Fire Officer, whether can be tinkered with now by re-arranging the seniority.

31. Illustratively, if a person already earned promotion as Leading Fireman and had been working 5 to 7 years, definitely after completing 7 years of total service from the date of initial appointment, he would be eligible and entitled to be considered, of course based on merit as well as seniority for the next higher post ie., Station Fire Officer, which is now re-designated as Station Officer.



W.A.Nos. 448 of 2020 and 2798 of 2021

32. However, by virtue of the retrospective application of the amended Rule, if the Department prepares statewide seniority among Leading Fireman, the Fireman who did not even earn promotion till the amended Rule has come into effect, would be in a position to be pushed up to the Leading Fireman category and based on the overall seniority at the time of initial enlistment as Fireman, such kind of people, though had not even earned the promotion as Leading Fireman, would have been placed in higher pedestal than the persons who have already earned the promotion as Leading Fireman several years back.

33. This kind of anomaly, though has been brought to the notice of the learned Judge, the learned Judge has not considered that aspect and he has given a direction to go ahead with the proposal by giving liberty to those affected persons to give their objections.

34. This approach on the part of the writ Court cannot be said to be correct in view of the clear Rule position. The Rule making authority, in their wisdom, has made it very clear that all other amendments would come into effect from the date of Gazette Publication ie., 27.03.2019.

35. Therefore, the effect of such amendment is, after 27.03.2019, it is open to the Department to prepare the statewide seniority list in respect of all the posts including the Fireman and the position when they prepared the statewide seniority



W.A.Nos. 448 of 2020 and 2798 of 2021

for the post of Fireman as well as Leading Fireman on 27.03.2019 should be taken into account.

36. In other words, on 27.03.2019, who ever had already earned the Leading Fireman promotion, their seniority shall be unaltered. If that is the position, automatically the seniors who already earned promotion to the post of Leading Fireman naturally would march over the juniors who are going to get the promotion by virtue of the amendment only from 27.03.2019.

37. This exercise should have been undertaken by the Government. Knowingly or unknowingly, the Government has not undertaken the said effort. Instead, they wanted to *en masse* place all the people including seniors along with the juniors in the Leading Foreman category also and accordingly they came forward to issue draft seniority list, which in fact was directed to be prepared as per the directions of the learned Judge in the order impugned herein.

38. Therefore, we absolutely do not have any hesitation to hold that the said approach on the part of the respondent Government in preparing the seniority list in the category of Leading Fireman by placing all the Leading Fireman who have already been promoted along with the promotees by virtue of the amendment with effect from 27.03.2019 in the same pedestal, not taking into account of the original seniority of Fireman, is incorrect. The exercise that has been made or attempted by the Government is totally against the Rule position.



W.A.Nos. 448 of 2020 and 2798 of 2021

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39. In that view of the matter, we find force in the submissions made by the learned Senior Counsel as well as the learned counsel for the appellants, who represent the Leading Firemen, who earned promotion based on the Division wise seniority under the erstwhile Rule several years back.

40. Accordingly, the following directions are issued :

- That the directions issued by the learned Judge through the impugned order dated 19.02.2020 are hereby set aside.
- Consequently, there shall be a direction to the respondent / State to prepare a fresh seniority list in the category of Leading Fireman by taking into account the promotion earned by several persons like the present appellants as per the then existing unamended Rule and accordingly the seniority shall be fixed.
- It is to be clarified that insofar as the Firemen who are also eligible to get promotion as Leading Firemen by virtue of the State wide seniority, they must earn such promotion of Leading Firemen only with effect from 27.03.2019 and accordingly their seniority shall be reckoned in the promoted category of Leading Firemen.



W.A.Nos. 448 of 2020 and 2798 of 2021

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- Insofar as the seniority to be fixed in the Firemen category, which is the entry level post, whoever got promotion prior to 27.03.2019 to the post of Leading Fireman shall not be disturbed and they shall not be brought back to the seniority list to be prepared in the feeder category of Fireman.
- The aforesaid exercise shall be undertaken by the respondent State / Department within a period of twelve (12) weeks from the date of receipt of a copy of this order.
- After preparing the aforesaid statewide seniority list as indicated above, that shall be published by giving at least 30 days time to those who have got any grievance with regard to such list, provided such kind of grievance shall be in consonance with what has been directed herein and not beyond that. After giving such time of one month, the respondent Government shall go ahead with giving promotions to the eligible candidates as per the Rule.
- While complying with the above directions, the official respondents / Government must also re-adjust the temporary promotion that has been given to some individuals pursuant to the amended Rules



W.A.Nos. 448 of 2020 and 2798 of 2021

and that anomaly also shall be set right and they shall also be brought under statewide seniority in the respective category as indicated above.

- For the purpose of clarification, we make it clear that the Firemen, who had become eligible and got promoted as Leading Firemen as on 27.03.2019 shall not, at any cost, be placed ahead of the promotees who have earned promotion before 27.03.2019.

These writ appeals are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.K.,J..) (K.B.,J.)

17.07.2023

Index : Yes
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Neutral Citation : Yes/No

KST



W.A.Nos. 448 of 2020 and 2798 of 2021

To

- 1 The Secretary to Government, Home (Police XVII Department), Fort St.George, Chennai 600 009.
- 2 The Chairman/ Director
State Recruitment and Promotion Board
Directorate of Fire and Rescue Services
Egmore Chennai - 600006
- 3 Director of Fire and Rescue
Services O/o. Directorate of Fire and
Rescue Services Egmore Chennai - 600008
- 4 Joint Director Northern
Region O/o. Directorate of Fire and Rescue
Services Egmore Chennai - 600008
- 5 Deputy Director
North Western Region Fire and Rescue Service
Department Vellore



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W.A.Nos. 448 of 2020 and 2798 of 2021

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