



WEB COPY



W.P.No.24728 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21..07..2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.24728 of 2022

and

W.M.P.No.23666 of 2022

K.Manikandan

..... Petitioner

-Versus-

1.The Member Secretary,
Tamil Nadu Uniformed Service Recruitment Board,
Chennai 600008.

2.The Director General of Police,
Fire and Rescue Department,
17, Rukmani Lakshmipathy Road,
Egmore, Chennai 600008, Tamil Nadu.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent pertaining to the order issued by him to the 1st respondent bearing Na.Ka.No.10824/A/2019 dated 24.08.2022 and to quash the same and consequently direct the respondents to consider the application of the petitioner based on merits within a time frame to be stipulated by this court

For Petitioner : *Mr.K.Venkateswaran*

For Respondents : *Mrs.Sowmi Dattan for R1*

Mr.V.Jeevagiridharan,
Addl. Government Pleader for R2



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ORDER

This writ petition challenges the order of the 2nd respondent bearing Na.Ka.No.10824/A/2019 dated 24.08.2022 refusing to appoint the petitioner as Fireman on the ground that his character and antecedent was not satisfactory he has involved in a criminal case and seeks a consequential direction to the respondents to consider the application of the petitioner based on merits within a time frame to be stipulated by this court.

2. The 1st respondent issued an employment notification dated 01.10.2020 to fill up the posts of Grade II Police Constable (Men, Women & Transgender), Grade II Jail Warder (Men & Women) and Fireman. The petitioner is fully qualified for appointment to the posts covered in the above said notification as he passed HSC. He applied for the posts through online. His Application Number is 1000683629. However, he was not selected for any of the posts and an order has been passed rejecting his candidature on the ground that he has involved in a criminal case. The grievance of the petitioner is that the Government Order in G.O.Ms.NO.386(Police 17) Department, dated 14.09.2021 would not be applicable to his case as it was prospective in effect and hence, rejection of his candidature is unfair and not sustainable in the eye



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3. Heard both sides.

4. The issue is covered by a common judgement of a single judge of this court dated 05.07.2023 made in W.P.Nos.25020 of 2022 etc., batch **(S.Karthi v. State of Tamil Nadu and others)** and a judgement of a Division Bench of this Court in W.A.(MD) No.232 and 233 of 2023 dated 08.03.2023 **(The Director , Tamil Nadu Fire and Rescue Services v. A.Muralitharan)**.

5. The Division Bench of this Court in W.A.(MD) No.232 and 233 of 2023 dated 08.03.2023 **(The Director , Tamil Nadu Fire and Rescue Services v. A.Muralitharan)** in an identical situation has held that impugned orders having been passed only based on sub-rule (3) cannot be sustained since the sub-rule was introduced after the commencement of the selection process.

6. In the light of the above legal position, this court is inclined to set aside the impugned communication and issue suitable directions to the respondents. This writ petition succeeds accordingly.



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In the result, the impugned order is set aside. The 2nd respondent is directed to consider the suitability of the petitioner in terms of Rule 5-B(1) and take appropriate decision within a period of eight weeks from the date of receipt of a copy of this order.

This writ petition is disposed of accordingly with the above directions.

No costs. Consequently connected MP is closed.

21..07..2023

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

To

- 1.The Member Secretary,
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- 2.The Director General of Police,
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