



W.A.(MD) No.305 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A.(MD) No.305 of 2023
and
C.M.P.(MD) No.3474 of 2023**

1.The Director
Tamil Nadu Fire and
Rescue Service Department
No.17, Rukmani Lakshmipathi Road
Egmore, Chennai-600 002

2.The Member Secretary
Tamil Nadu Uniformed Service
Recruitment Board
Pantheon Road
Egmore, Chennai-600 008

... Appellants

-vs-

M.Dhineshmuthu

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 13.10.2022, passed in W.P.(MD) No.23607 of 2022, on the file of this Court.



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For Appellants : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader

For Respondent : Mr.A.Arul Jenifer

J U D G M E N T

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

Challenge in this writ appeal is to the order of the Writ Court, dated 13.10.2022, passed in W.P.(MD) No.23607 of 2022, directing issuance of appointment order to the respondent – writ petitioner, who was disqualified on the ground of pendency of criminal case against him, relying upon Rule 5B(3) of the Special Rules for Tamil Nadu Fire Subordinate Service, which was introduced after the commencement of selection process.

2. The Writ Court had allowed the writ petition and directed issuance of appointment order to the respondent – writ petitioner, solely on the ground that a rule, which was introduced subsequent to the commencement of the selection process, cannot be invoked to disqualify him.



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3. We had considered the similar position in W.A.(MD) Nos.232 & 233 of 2023 and by a common order dated 08.03.2023, we have disposed of the writ petitions observing as follows:

“6.Both Mr.Aswin Raja Simman and Mr.Mohammed Imran appearing for the respondents would submit that the orders impugned in the writ petitions having been passed only based on Sub Rule 3, cannot be sustained. We are in agreement with the contention of the learned counsel for the respondents that the orders impugned in the writ petitions having been passed only based on Sub-Rule 3 cannot be sustained, since the Sub Rule 3 was introduced after the commencement of the selection process. However, we cannot, at the same time, preclude the employer from looking into antecedents of the persons, who are to be employed in the Uniformed Services in terms of Rule 5 B (1) and (2). Therefore, while affirming the orders in the writ petitions, we set aside the positive direction issued by the Writ Court to issue appointment orders to the petitioners. The Appointing Authority, namely, the Director of Fire and Rescue Services will consider the suitability of the petitioners in terms of Rule 5 B (1) (2) and take appropriate decision. Needless to state that the authority will examine the issue with an open mind and without being influenced by any of the observations made



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*either by the Writ Court or by us in this Judgment.
The authority will pass the orders within a period of
12 weeks from the date of receipt of a copy of this
order.”*

4. In view of the same, this writ appeal is also disposed of on the same terms. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

20.03.2023

NCC : Yes / No
Index : Yes / No
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