



W.P.(MD)No.3114 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.3114 of 2023

and

W.M.P.(MD).No.2896 of 2023

S.Deepak

... Petitioner

Vs.

1.The Director,
Department of Fire and Rescue Services,
No.17, Rukmani Lakshmipathi Road,
Egmore,
Madras 600 008.

2.The Deputy Director,
Department of Fire and Rescue Services,
District Training Centre,
Tambaram,
Chennai 41.

3.The District Officer,
Department of Fire and Rescue Services,
Bharathinagar,
Ramnad 623 503.

... Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the entire records in R.C.No.10382/B4/2021, dated 07.02.2023 passed by the first respondent and quash the same and direct the respondents 1 and 3 to follow as per G.O.(Ms.)No.1499 dated 03.08.1989, to appoint the petitioner as Junior Assistant and not to the fireman post and fix a time frame for the same.

For Petitioner : Mr.R.Ramasamy
For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

This writ petition has been filed challenging the appointment order issued by the first respondent dated 07.02.2023 and to quash the same and consequently direct the respondents 1 and 3 to follow, as per G.O. (Ms.)No.1499 dated 03.08.1989, to appoint the petitioner as Junior Assistant and not in the Fireman Post.



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2. The learned counsel appearing for the petitioner would submit that the petitioner's father served in the respondent Department in Ramnad and died in the road accident on 09.06.2019. He studied B.C.A., and L.L.B. (Hons) in Ambedkar Law University, Chennai and he made an application seeking compassionate appointment and the same was returned. Again, on 22.12.2021, the petitioner has made an application to the first respondent for the post of Junior Assistant. Now, the first respondent issued an appointment order for Fireman post. As per G.O.(Ms.)No.1499 dated 03.08.1989, the appointing authorities under no circumstances should appoint a dependant to a lower post than the Junior Assistant post. Contrary to the above said G.O., the present appointment order has been passed, which is not sustainable one. Hence, he prayed for allowing this writ petition.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.



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4. The facts in the present case are not in dispute. Admittedly, the compassionate appointment is not a source of recruitment. Based on the harness faced by the dependant family of the deceased Government servant, the compassionate appointment will be provided. In the present case, the first respondent has considered the petitioner's representation and issued the order of appointment to the post of Fireman. If the petitioner is not interested in joining the post of Fireman, he may not join in the aforesaid post and if he wants the Junior Assistant Post, he has to participate in the recruitment process conducted by the Tamil Nadu Public Service Commission and the petitioner cannot choose a particular post in appointment on compassionate appointment and the compassionate appointment is being given based on the available vacancy. Hence, the prayer sought for by the petitioner cannot be granted.

5. After dismissal of this writ petition, the learned counsel appearing for the petitioner requested this Court to permit the petitioner to join duty within a period of two weeks, since the impugned order fixed the



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time to report for training at State Training Centre, Tambaram, Chennai on 15.02.2023 at 4.00 p.m. and the training will commence on 16.02.2023. Hence, this Court directs the petitioner to join duty on 16.02.2023 before 4.00 p.m.

6. With the above direction, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

15.02.2023

NCC: Yes/No
Index : Yes / No
Speaking Order : Yes / No

Note: Issue order copy on 15.02.2023.

akv

To

1. The Director,
Department of Fire and Rescue Services,
No.17, Rukmani Lakshmipathi Road,
Egmore,
Madras 600 008.



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- 2.The Deputy Director,
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M.DHANDAPANI,J.

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