



W.P.(MD).Nos.8843 of 2015 & 14192 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.8843 of 2015 & 14192 of 2018

and

M.P(MD)Nos.1 & 2 of 2015

W.P(MD)No.8843 of 2015:

D.K.Sivayogaraja

... Petitioner

Vs.

1.The Director,

Tamil Nadu Fire & Rescue Service Department,
Thousand Light Commercial Tax Complex,
No.1, Greems Road,
Chennai-6.

2.The Assistant District Officer (full additional in-charge),

Office of the District Officer,
Fire & Rescue Service Department,
Ramanathapuram District,
Ramanathapuram.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order Mu.Mu.No.9904/A2/2010 Pa.Aa.No. 277/2015 dated 26.05.2015 passed by the 2nd respondent and quash the same



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and consequently direct the respondents to employ the petitioner on out duty in fire and Rescue Services Department.

W.P(MD)No.14192 of 2018:

D.K.Sivayogaraja

... Petitioner

Vs.

- 1.The Director,
Tamil Nadu Fire & Rescue Service Department,
Thousand Light,
Commercial Tax Complex,
No.1, Greems Road,
Chennai-6.
- 2.The Regional Deputy Director,
Tamil Nadu Fire & Rescue Service Department,
Madurai.
- 3.The Assistant District Officer (full additional in-charge),
Office of the District Officer,
Fire & Rescue Service Department,
Ramanathapuram District,
Ramanathapuram.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, directing the respondents to provide alternate employment to the petitioner on the basis of the petitioner's representation dated 13.11.2017 within a reasonable time to be fixed by this Court.



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For Petitioner : Mr.P.Ganapathi Subramanian
(In both cases)
For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader
(In both cases)

COMMON ORDER

There are two writ petitions filed by the petitioner. W.P(MD)N0.8843 of 2015 is challenging the impugned order dated 26.05.2015 with the consequential relief to employ the petitioner in the Fire and Rescue service. W.P(MD)No.14192 of 2018 is filed for mandamus, directing the respondents to provide an alternative employment to the petitioner based on the representation, dated 13.11.2017.

2. The petitioner was selected to the post of Fireman through Uniform Service Recruitment Board and he was issued appointment order on 05.06.2009. The petitioner was directed to attend training. While he was undergoing training on 19.06.2009, he met with an accident and fractured in his right hand, hence, he could not complete his training. The respondents directed the petitioner to complete his training, otherwise his probation would not be



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declared. In spite of extension of 5 years period, the petitioner could not complete his training because of the permanent injury, which made his right hand not as active as a normal person. Based on the reports, the respondents have terminated the petitioner from service vide order, dated 26.05.2015.

3. It is seen that the petitioner is medically incapacitated during the training period and termination may not be appropriate in the facts and circumstances of the case and hence the termination order passed by the respondents is unwarranted. Moreover, before passing the said termination order, the respondents have not issued any show cause notice. This Court is of the considered opinion that the case of the petitioner ought to be taken as medically discharged. Once a person is medically discharged, the person ought to be considered for alternative employment. The petitioner has rightly submitted his representation to the original authority, where the original authority has forwarded the petitioner's representation to the appellate authority. Based on the recommendation and representation of the petitioner, the appellate authority directed the petitioner to appear before the Medical Board. The petitioner has appeared, wherein the Medical Board has stated the petitioner's case is traumatic sequel and he is fit for ministerial job. In spite of



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such certificate, dated 04.04.2018, the respondents have not issued any alternative employment.

4. Therefore this Court is quashing the impugned termination order, dated 26.05.2015 and the 1st respondent is directed to consider the case of the petitioner for alternative employment in the light of the Medical Report dated 04.04.2018. This Court expects the respondents to be more sympathetic while considering the case of the petitioner to grant alternative employment. The said exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order.

5. With the above said observations, the Writ Petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

19.01.2023

Index : Yes / No
Internet : Yes/ No

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To

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- 2.The Regional Deputy Director,
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S.SRIMATHY, J.

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