



W.P.(MD)No.15539 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.15539 of 2024 &
W.M.P.(MD)No.13595 & 13596 of 2024

1.Vanangamudi
2.R.Kumar

... Petitioners

vs.

1.The Director General of Police / Director,
Fire and Rescue Services,
No.17, Rukmani Lakshmipathy Road,
Egmore, Chennai - 8.

2.The Deputy Director,
Fire and Rescue Services,
Southern Region,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.16884/Aa1/2023, dated 02.07.2024, quash the same as illegal, arbitrary and in violation of principles of natural justice.



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For Petitioners : Mr.B.Saravanan,
Senior Counsel
for M/s.B.Saravanan Associates

For Respondents : Mr.R.Bhaskaran
Additional Advocate General
Assisted by
Mr.S.Shanmugavel
Additional Government Pleader

ORDER

Heard Mr.B.Saravanan, learned senior counsel appearing for the petitioners and Mr.R.Bhaskaran, learned Additional Advocate General appearing for the respondents.

2. The petitioners have filed this writ petition seeking to quash the impugned order of the first respondent in Na.Ka.No.16884/Aa1/2023, dated 02.07.2024 as illegal, arbitrary and in violation of principles of natural justice.

3. The petitioners are aggrieved due to the impugned order of the first respondent through which certain Leading Firemen have been called upon to appear before the Promotional Committee on 03.07.2024.



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4. When it is pointed out that the issue has become infructuous in view of the fact that the appearance could have been made as early as on 03.07.2024, Mr.B.Saravanan, learned senior counsel appearing for the petitioners submitted that the selection process is still continuing and till date, no final orders have been passed.

5. The petitioners were appointed as Fireman on 09.09.1996 and they have been promoted to the post of Leading Fireman on 25.02.2019. While so, in the Memorandum issued by the first respondent on State Wise Seniority List, the first petitioner has been placed in the Serial No.612 and the second petitioner has been placed in the Serial No. 589. However, in the draft seniority list of Leading Fireman issued by the first respondent on 27.10.2023, the first petitioner has been placed in the Serial No.920 and the second petitioner has been placed in the Serial No. 902. The petitioners have also raised objections to the draft seniority list. The draft seniority list is yet to be finalized.



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6. Mr.B.Saravanan, learned senior counsel appearing for the petitioners submitted that for finalizing the seniority list, the first respondent has called upon certain batch of Officers to appear before the Promotion Committee. Since the petitioners' name have not been featured in the annexure to the impugned order, the petitioners could not appear before the Promotional Committee.

7. Mr.R.Bhaskaran, learned Additional Advocate General appearing for the respondents submitted that in view of the Judgment dated 17.07.2023 passed by the Principal Seat of this Court in W.A.Nos. 448 of 2020 and 2798 of 2021, the seniority list has been drafted and the individuals who have been included in the seniority list have been called upon to appear before the Promotional Committee. In the writ appeals the following directions have been issued.

"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.*



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- *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.*
- *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 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."*

8. The attention was drawn to the clarification given in the above directions, wherein, it has been stated that the Firemen, who had become eligible and got promoted as Leading Firemen as on 27.03.2019 shall not be placed ahead of the promotees who have earned promotion before 27.03.2019.



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9. The learned Additional Advocate General further clarified that in the earlier directions issued in the writ appeals, it has been clarified that for the Firemen who are eligible to get promotion as Leading Firemen by virtue of the State wide seniority, the promotion would take effect on and from 27.03.2019 and not earlier.

10. The learned senior counsel appearing for the petitioners insisted that the State wide seniority list has not been finalized after hearing the objections and hence, the directions of the Court have not been complied properly.

11. At this juncture, the learned Additional Advocate General submitted that the Government Order in G.O.Ms.No.179, Home (Police-XVII) Department dated 20.03.2019 has brought amendment to the Service Rules for having State wide seniority list in the cadre of Leading Firemen.



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12. The petitioners were two among 796 persons who got promoted as Leading Firemen on 25.02.2019 vide the proceedings of the first respondent dated 16.02.2019. The petitioners have got their promotion prior to the Judgment of this Court in W.A.Nos.448 of 2020 and 2798 of 2021 and more particularly before the cut-off date referred in the Judgment i.e., 27.03.2019. Hence, in all fairness, the respondents ought to have considered the objections raised by the petitioners before finalizing the seniority list dated 02.07.2024.

13. Though the Memorandum dated 05.06.2024 issued by the Assistant Director (Administration), Tamil Nadu Fire and Rescue Services Department makes a mention about the objections, it does not state anything about the individuals' grievances. However, in the said Memorandum it has been stated that all those who have been holding the post of Leading Firemen before 27.03.2019 will be considered for promotion for the post of Station Officers before promoting the other Leading Firemen as Station Officers in accordance with the Government



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Orders in G.O.Ms.No.997, Home (Police-XVII) Department, dated 14.08.2018 and G.O.Ms.No.179, Home (Police-XVII) Department dated 20.03.2019.

14. Since the petitioners have got their promotion on 25.02.2019 itself, irrespective of the above said Government Orders, they can be assured of their consideration in accordance with their seniority and in accordance with the directions given by this Court vide Judgment dated 17.07.2023 in W.A.Nos.448 of 2020 and 2798 of 2021. So, there need not be any apprehension for the petitioners in respect of the impugned order issued by the first respondent calling for the eligible Firemen to appear before the Promotional Committee. However, I feel, it would be appropriate for the first respondent to re-issue the annexure attached to the impugned proceedings by mentioning the date of promotion to the post of Leading Firemen in a separate column in view of the directions of the Division Bench in Judgment dated 17.07.2023 in W.A.Nos.448 of 2020 and 2798 of 2021.



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15. Since there is no misunderstanding between the petitioners and the respondents in construing the context of the Division Bench Judgment dated 17.07.2023 in W.A.Nos.448 of 2020 and 2798 of 2021, I feel that the exercise of re-issuing the annexure in the above stated manner itself will resolve the issue. The seniority list can also be finalized after inviting objections, if any.

16. In view of the above observations, the writ petition is **disposed of** and the first respondent is directed to re-issue the annexure attached to the impugned proceedings in Na.Ka.No.16884/Aa1/2023, dated 02.07.2024 by mentioning the date of promotion to the post of Leading Firemen in a separate column. No costs. Consequently, connected Miscellaneous Petitions are closed.

11.07.2024

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NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order



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To

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R.N.MANJULA, J.

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