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W.A.No.268 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.A.No.268 of 2025

G.Sathiyannarayanan

.. Appellant

Vs.

1. The Government of Tamil Nadu
Department of Home (Police - XVII)
Rep. by its Principal Secretary
Fort St. George, Chennai - 9.

2. The Director
Fire and Rescue Services
Egmore, Chennai - 8.

3. The Director
Commission for Scheduled Castes
2nd Floor, Block No.5
Shastri Bhavan, Chennai - 6.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent Act,
against the order dated 05.03.2024 made in W.P.No.747 of 2024.

For the Appellant : Mr.G.Sankaran
Senior Counsel
for Mr.S.Bharathi Rajan

For the Respondents : Mr.M.Venkateswaran
Special Government Pleader



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JUDGMENT

(Judgment of the Court was authored by R.SURESH KUMAR, J.)

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This intra-Court appeal has been filed against the order of the

Writ Court dated 05.03.2024 made in W.P.No.747 of 2024.

2. In fact, the order dated 05.03.2024, which is impugned herein, is a common order passed in W.P.Nos.22411 of 2023 and 747 & 1858 of 2024. In respect of the order passed in W.P.No.747 of 2024 alone, the present intra-Court appeal has been directed.

3. Before the Writ Court, the prayer sought by the appellant/writ petitioner is for a writ of certiorarified mandamus, to call for G.O.(3D)No.08 dated 05.01.2024 passed by the first respondent and quash the same and reiterate the appellant/writ petitioner as Joint Director of Fire and Rescue Services or alternatively, to direct the respondents to depute the appellant/writ petitioner permanently to some other Department in the same rank in view of the Judgment of the Hon'ble Supreme Court in the case of **Arul Kumar and Ors. vs. Union of India and Ors.**¹.

4. The facts, in a nutshell, which are required to be noticed for the disposal of the present writ appeal reads thus:-

1 2007 (5) SCC 580



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(i) The appellant/writ petitioner was appointed as Project Assistant Level – II in the Central Electro Chemical Research Institute. While he was in service, the appellant/writ petitioner had written the examinations for the Group-I services, conducted by the Tamil Nadu Public Service Commission in the year 2008. In his attempt to write the Group – I examinations, he became successful and he got selected and he has been appointed as Divisional Fire Officer, Category – 2 in Class II on 02.12.2009 as per the Government Order made in G.O.(Ms.)No.1027 dated 02.12.2009.

(ii) Pursuant to the said Government Order, he was working as a Divisional Fire Officer and thereafter, he was promoted to the post of Deputy Director, Central Region, Trichy, on 12.04.2017 and subsequently, was promoted to the post of Joint Director and was transferred to the Western Region, Coimbatore.

(iii) While that being so, the Government issued a Government Order in G.O.(Ms.)No.349, Home (Police-XVII) Department, dated 10.07.2023, under which, the seniority of the Officers belonging to the Group – I Services, who had been selected and appointed by the Tamil Nadu Public Service Commission in the



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year 2008, where the appellant/writ petitioner was selected and appointed as Divisional Fire Officer, Category - 2, in the Fire Department, has been revisited and revised according to the revised seniority, of course, pursuant to the directions repeatedly issued by the Hon'ble Supreme Court to fix the seniority on the basis of merits and not on the basis of communal roster point.

(iv) The appellant/writ petitioner, who was originally placed in seniority No.1 on the basis of the communal roster, has been pushed back to seniority No.2 on the basis of merit and one *P.Saravana Kumar* was placed at seniority No.1.

(v) By virtue of the said Government Order dated 10.07.2023, since the seniority has been revised, where the appellant/writ petitioner who stood as the first person in the seniority has been pushed back to the second position, naturally, the post of Joint Director held by him had to be vacated and he had to be reverted. However, such a reversion order had been issued by the Department only on 05.01.2024 in G.O.(3D)No.8, Home (Police-XVII) Department.



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(vi) By virtue of the Government Order dated 05.01.2024, the appellant/writ petitioner has been reverted from the post of Joint Director to the post of Deputy Director and therefore, aggrieved over the same, questioning the Government Order dated 05.01.2024, he approached this Court and filed the said writ petition.

(vii) In the said writ petition, an interim order of stay was granted on 09.01.2024. By virtue of that, he had been continuously working as Joint Director, despite his reversion.

(viii) The writ petition was disposed on 05.03.2024 through the impugned common order, whereby, the writ petition was dismissed for the elaborate reasons that have been discussed by the learned Single Judge. By virtue of the dismissal of the writ petition filed by the appellant/writ petitioner, as his reversion has been confirmed and in the meanwhile, from 05.01.2024, yet another post of Joint Director, which was held by another individual, namely one *N.Priya* since became vacant, in order to fill up the two vacancies of Joint Directors, the Department has come forward to issue a promotion order to the appellant/writ petitioner on 12.03.2024 in G.O.(2D)No.72, Home (Police-XVII) Department.



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(ix) By virtue of the Government Order dated 12.03.2024, there was no further impediment for the appellant/writ petitioner to continue to hold the post of Joint Director with effect from 12.03.2024. Therefore, absolutely, there has been no infirmity in the order passed by the Writ Court, where, the learned Single Judge, having taken note of the series of orders passed by the Hon'ble Supreme Court in contempt petitions at various point of time, whereby, mandatory directions have been given to the State Government to streamline and revisit and revise the seniority in respect of various Departments of the State Government pertaining to the selection that has been made after March, 2003, where the judgment of the Hon'ble Supreme Court had already declared the law, whereby, merits alone shall be the criteria for fixing the *inter se* seniority among the selectees by various selection Authorities, including the State Service Commission, such an execution of the orders passed by the Hon'ble Supreme Court became inevitable, the State Government since have ordered the Government Order dated 10.07.2023, insofar as the Fire Services Department is concerned, and the seniority also has been revised and the said revision of seniority cannot be questioned.



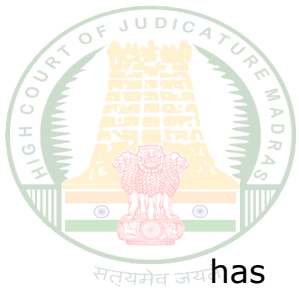
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(x) As against the Government Order made in G.O.(Ms.)No.349, Home (Police-XVII) Department, dated 10.07.2023, even though unsuccessful challenges have been made by the very same appellant/writ petitioner, as against the said order, no intra-Court appeal has been filed. Therefore, the verdict of the Writ Court, insofar as the validity of G.O.(Ms.)No.349, Home (Police-XVII) Department, dated 10.07.2023, has been accepted by the appellant/writ petitioner.

5. In this context, *Mr.G.Sankaran*, learned Senior Counsel appearing for the appellant/writ petitioner would contend that on 05.01.2024 itself, the two posts of Joint Directors have become vacant, as one *N.Priya* has vacated the post and therefore, there has been no occasion for the respondent Department to revert appellant/writ petitioner. Instead, the appellant/writ petitioner could have been retained in the second post, which became vacant from 05.01.2024 and therefore, there is no necessity to make a reversion on 05.01.2024, consequently, had been no necessity to make any reappointment by way of promotion by order dated 12.03.2024.

6.1. This contention of the learned Senior Counsel is not to be accepted by this Court for the simple reason that once the seniority



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has been revised by the Government Order made in G.O.(Ms.)No.349, Home (Police-XVII) Department, dated 10.07.2023, which is of course based on the directions issued by the Hon'ble Supreme Court, naturally, the one post of Joint Director which was held by the appellant/writ petitioner had to be vacated by him, where the said *Saravana Kumar*, who was in seniority No.1 on the basis of merit by virtue of G.O.(Ms.)No.349, Home (Police-XVII) Department, dated 10.07.2023, should have occupied the post. Enabling the said *Saravana Kumar* to occupy the post, the reversion order in G.O.(3D) No.8 dated 05.01.2024 was issued by the Department and therefore, that cannot be questioned by the appellant/writ petitioner.

6.2. When he does not have the reason to question G.O.(3D) No.8 dated 05.01.2024, consequentially, he should be reverted and once he gets reverted, even assuming that the second post has become vacant in the cadre of Joint Director on 05.01.2024, he should have made a plea before the respondent Department to consider his candidature to be posted as Joint Director in the second post immediately, which might have been considered, provided he had approached the Government in the proper way.



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6.3. However, instead of approaching the respondent Department to consider his candidature for the second post of Joint Director, he rushed to this Court and filed a writ petition challenging G.O.(3D) No.8 dated 05.01.2024 and also secured an interim order of stay on 09.01.2024. Therefore, the hands of the respondent Department had been tied and therefore, they could not move unless the writ petition, where the interim order of stay was granted, is disposed of one way or the other.

6.4. The said writ petition has been disposed only on 05.03.2024 through the impugned common order, whereby, the writ petition filed by the appellant/writ petitioner also has been dismissed. Only thereafter, the respondent Department has given the posting orders by giving promotion to the appellant/writ petitioner to the post of Joint director in the second vacancy, which arose from 05.01.2024 and posting was made in the said post only on 12.03.2024. This delay caused in getting the post of Joint Director for the appellant/writ petitioner is because of the unwarranted filing of the writ petition by the appellant/writ petitioner.



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6.5. Therefore, there has been no plausible reason available to this Court to interfere with the said view taken by the learned Single judge in dismissing the writ petition through the impugned order dated 05.03.2024.

7. As far as the right of the appellant/writ petitioner to hold the post of Joint Director continuously even without getting any reversion on 05.01.2024, because of the second post of Joint Director becoming vacant on 05.01.2024, is concerned, as the said point has been vehemently contended by the learned Senior Counsel appearing for the appellant/writ petitioner, we are not impressed with the same for the simple reason that not only on 05.01.2024, even prior that, that is on 10.07.2023 itself, the appellant/writ petitioner lost his authority to hold the post of Joint Director because of the seniority having been fixed, where, admittedly, he had been pushed back to seniority No.2 and the said *Saravana Kumar* has been placed in seniority No.1. Therefore, the said *Saravana Kumar* should have been placed in the said post of Joint director, which was held by the appellant/writ petitioner. However, the question is why the respondent Department has delayed in giving such reversion order to the appellant/writ petitioner till 05.01.2024, that is after several months.



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8. In this context, even though it is stated by the learned Senior Counsel that the appellant/writ petitioner, that some further clarification were sought before the Hon'ble Supreme Court in the contempt petition, that would, in no way, alter the situation which has already been held in unequivocal terms by the Hon'ble supreme Court, where mandatory directions have been given to the State Government to revisit the seniority and revise the seniority based on the merits.

9. When that being so, at no stretch of imagination, the appellant/writ petitioner could seek any indulgence of this Court to retain himself as Joint Director continuously uninterrupted on 05.01.2024, even subsequently, till he gets the post of Joint Director by virtue of the Government Order dated 12.03.2024.

10. Therefore, there is absolutely no reason to interfere with the impugned order of the learned Single Judge and the same deserves to be upheld and accordingly, it is upheld. As a result, the writ appeal fails, hence, is liable to be dismissed.



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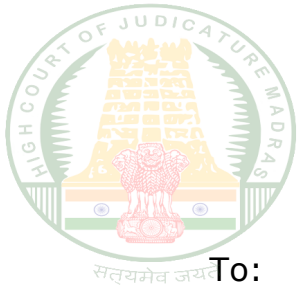
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11. Accordingly, the writ appeal stands dismissed. However, there shall be no order as to costs. Consequently, C.M.P.No.1973 of 2025 is closed.

(R.S.K., J.) (C.S.N, J)
29.01.2025

Neutral Citation:Yes/No

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To:

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R. SURESH KUMAR, J.
AND
C. SARAVANAN, J.
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