



Writ Petition No.7865 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
18.02.2026

PRONOUNCED ON
27.02.2026

CORAM

**THE HONOURABLE MR. JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Petition No.7865 of 2023
& WMP.No.8116 of 2023**

A.Suresh

... Petitioner

Vs

- 1.Union of India,
By Government of Puducherry
Rep., by its Chief Secretary,
Secretariat, Puducherry – 1.
- 2.The Secretary to Government,
Fire Services Department, Secretariat,
Government of Puducherry,
Puducherry -1.
- 3.The Additional Secretary to Govt.,
Home Department, Secretariat,
Government of Puducherry,
Puducherry -1.
- 4.The Divisional Fire Officer,
Fire Service Department,
Government of Pondicherry – 605 001.



Writ Petition No.7865 of 2023

5.Mr.Rithosh Chandra

6.Mr.J.,Mugundan

7.The Central Administrative Tribunal,
Madras Bench,
Rep., by its Registrar,
Chennai – 600 104.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 7th respondent Tribunal in O.A.No.231 of 2016, dated 19.01.2022 and quash the same and consequently, direct the respondents 2 to 4 to promote the petitioner as ADFO, in the vacancy falling in the 7th reserved point in the roster and pass such other suitable orders.

For Petitioner : Mr.P.S.Raman Sr., Counsel
Assisted by Mr.J.Srinivasa Mohan
for M/s.TVJ Associates

For Respondents : Mr.Syed Mustafa
Spl.,G.P., (Puducherry)
for RR1 to 4

Mr.N.Balamurali Krishna for
Mr.R.Nandha Kumar for RR5 & 6

R7- Tribunal



Writ Petition No.7865 of 2023

ORDER

WEB COPY

(Order of the Court was made by Mr.K.KUMARESH BABU., J.)

This writ petition has been filed to quash the order of the Tribunal made in O.A.No.231 of 2016, dated 19.01.2022 and consequently, direct the respondents 2 to 4 to promote the petitioner as ADFO, in the vacancy falling in the 7th reserved point in the roster.

2. Heard Mr.P.S.Raman learned Senior Counsel assisted by Mr.J.Srinivasa Mohan learned counsel appearing for petitioner, Mr.Syed Mustafa, learned Special Government Pleader (Puducherry) appearing for the respondents 1 to 4 and Mr.N.Balamurali Krishna learned counsel appearing for Mr.R.Nandha Kumar, learned counsel appearing on behalf of the 5th and 6th respondents.

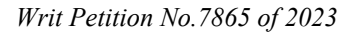
3. The learned Senior counsel appearing for the petitioner would submit that the petitioner, who is a Scheduled Caste candidate belongs to a reserved category and that he is working as a Station Officer in the Fire Department and his avenue of promotion is the Additional Divisional Fire



Writ Petition No.7865 of 2023

Officer (hereinafter referred to as “ADFO”). He would submit that the roster is being maintained by the respondents 1 to 4 with regard to the Officer who held the post of ADFO right from the date of inception of such cadre and that the next vacancy that fell in the said post had to be filled up in point No.7, which had been reserved for a Scheduled caste. However he had not been given the said promotion and the promotion had been given to an unreserved category. Hence, he had made a representation indicating that he had completed eight years of service as required for the post of ADFO. The learned Senior counsel by referring to an Office Memorandum that had been issued on 02.07.1997, would submit that the earlier policy of 200-point, 40-point, 120-point vacancy based rosters were replaced by post-based rosters. Referring to clause 5 of the said Memorandum, he would submit that during the initial operation of such roster the earlier appointments made at the inception of the cadre have to be considered and adjustments have to be made towards 13 point reservation as annexed in the Annexure-III to the said Office Memorandum, which is the model roster of reservation.

4. He would further submit that the first six vacancies that were filled up, were through unreserved candidates and the 7th point falls under SC



5. He would also draw our attention to the Minutes of the Selection Committees of various years to claim that the post of ADFO had been filled only by following the roster system and not based upon the merits in its



Writ Petition No.7865 of 2023

entirety. Referring to an order of the Tribunal made in O.A.No.50 of 1995, dated 19.03.1997, he would submit that there was a specific direction in an earlier case regarding the very same post only to be filled up by following the roster, even though the same was a single post in a cadre.

6. He would further submit that in the Original Application filed by the petitioner, an order of dismissal came to be passed holding that there is no error in not promoting the petitioner, but however in a Writ Petition filed by the petitioner noting that the Tribunal had not considered the judgment of the Co-ordinate Bench at Ernakulam and Delhi had dismissed the claim made by the petitioner and had set aside the order of the Tribunal and remitted the matter back to the Tribunal for fresh consideration, with a further direction to the petitioner to array the private respondents as party respondents in the application. Thereafter, the petitioner had also impleaded the private respondents and under the impugned order, the Tribunal holding that the single post cannot be filled up by following the roster and that the post had become plural only in the year 1997, the roster can be applied from that date and the appointees to that post could be only counted as per the roster and there was no error on the part of the respondents in treating the vacancy to be filled up at serial no.5 rather than serial no.7 as claimed by the



Writ Petition No.7865 of 2023

petitioner.

WEB COPY

7. He would submit that the Tribunal has wholly erred in holding that the judgment of the Co-ordinate Bench at Ernakulam was not applicable to the facts of the case. Drawing attention to the judgment of the Co-ordinate Bench at Ernakulam, he would submit that the roster should be implemented from the date on which the post had come into being and that the percentage of the reservation has to be worked out in relation to the number of post which formed the cadre strength. Similarly, drawing attention to the judgment of the Co-ordinate Bench at Delhi, he would submit that a similar view had been taken by the Delhi Bench and therefore, the roster point should be taken into account from the date of inception of the said cadre whether it be a single post or plural posts. Hence, he would submit that the Tribunal had wholly erred in rejecting the case of the petitioner and seeks indulgence of this Court to the order impugned herein.

8. Countering his arguments, the learned Special Government Pleader (Pondicherry) would submit that the post of ADFO was a single post in the cadre and the same had not been hitherto filled up by following the roster.



Writ Petition No.7865 of 2023

He would submit that even if the claim of the petitioner is to be considered based upon the earlier Committee's recommendation, even though the said Committee had held that it is to be filled up under serial no.3 of the then roster that was followed, serial no.3 would have to be filled up by a SC candidate, whereas admittedly the same had not been filled up by a SC candidate, but only had been filled up on merits as per the Recruitment Rules to the said post. He would submit that even though the reservation category had been shown, none of the earlier appointees had been filled up by following the Rules of roster, as the post was a single cadre post.

9. He would further submit that the Office Memorandum that had been relied upon by the learned Senior Counsel appearing for the petitioner had been made pursuant to the judgment of the Hon'ble Apex Court in the ***R.K.Sabharwal's*** case. He would submit that the Hon'ble Apex Court in a subsequent judgment in the case of ***Post Graduate Institute of Medical Education & Research v. Faculty Assn.,*** reported in ***(1998) 4 SCC 1*** had categorically held that the roster point ought not to have been applied in respect of a single post in a cadre. He would submit that a subsequent Constitutional Bench had categorically held that the ratio laid in



Writ Petition No.7865 of 2023

R.K.Sabharwal's case can only apply in a cadre where there is plurality of post. Therefore, he would submit that the roster had been rightly applied by the respondents 1 to 4 in respect of the said cadre and only appointments made after 1997 when the posts become plural alone had been taken for application of the roster point and therefore, the vacancy that fell in the year 2015 cannot be attributed to a vacancy for the SC category and it has been rightly filled up on the basis of merits from an unreserved category and the petitioner did not meet the merits for the promotion in the year 2015 and has also been promoted when the vacancy for the said post fell in the 7th roster point. Therefore, he would submit that the petitioner cannot have any grievance and that there is also no infirmity in the order impugned herein and hence, he prays this Court to dismiss the Writ Petition.

10. The learned counsel appearing for the respondents 5 & 6 had reiterated the arguments made by the learned Special Government Pleader appearing for the respondents 1 to 4 and prays this Court to dismiss the Writ Petition.

11. In reply, the learned Senior Counsel appearing for the petitioner



Writ Petition No.7865 of 2023

would submit that it is not their case in entirety that roster point have to be followed from the date of the initial inception. By applying Clause 5 of the Office Memorandum of the year 1997 when roster is sought to be implemented in a particular post, the appointments from the date of initial inception of the said post will have to be counted in for the vacancies that is to arise when the roster points are being followed in the said post. Hence, he prays this Court to allow the Writ Petition on the strength of the Clause 5 of the Office Memorandum.

12. We have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

13. The *lis* that is to be resolved in this Writ Petition is as to the following of roster in the cadre of ADFO. Even though, it is the claim of the petitioner that the roster had been followed from the inception of the said post, the same had been disputed by the respondents 1 to 4 that the roster had never been followed. It is admitted that in 1993 when the DPC had met for promotion to the post of ADFO from Station Officers, it had noted that the said single post fell in vacancy at point no.3 in the 40 point roster which falls to the SC category and 5 names were considered of which one of the



Writ Petition No.7865 of 2023

candidate namely V.Hari Krishnan belonged to Scheduled Caste community. However, the promotion was granted to an unreserved category and the same came to be challenged by the said Hari Krishnan before the Tribunal in O.A.No.50 of 1995. The Tribunal holding that the post ought to have been filled only to be as per the roster, had directed the Official respondents therein to review the promotion of the second respondent therein. The same had been challenged in W.P.Nos.19631 of 1998 & 29747 of 1998 and a Division Bench of this Court had set aside the order made in the said Original Application. Hence, it is clear that for the single post of ADFO till 1997 had been filled up without following the roster.

14. The contention of the learned Senior Counsel appearing for the petitioner is that by application of Clause 5 of the Office Memorandum dated 02.07.1997, when the post had become plural, then the roster should be operated by taking into consideration the initial appointees to the said post and then draw a roster point which had to be filled up in the next vacancy.

15. On the contrary, it is the claim of the learned Special Government Pleader that only after the post had become plural, the roster points should



Writ Petition No.7865 of 2023

be taken into consideration and the earlier appointees dehors the category need not be taken into consideration. In that context, it would only be useful to refer to the said Official Memorandum.

16. A perusal of the Official Memorandum in Clause 5 read with Annexure-I which relates to the principles on which the same should be operated would indicate that such Official Memorandum had been given only to the cadre which had plurality of posts. Clause 5 of the Official Memorandum should not be read in isolation and should be read along with other Clauses namely Clause 6.

17. A reading of Clause 6 would indicate that such exercise as stipulated in Clause 5 is only in relation to plurality of posts so as to see that the posts in cadre is distributed as per the Rule of reservation. This is clear by reading Annexure-I particularly the “initial operation”. For better appreciation, the relevant Clauses are extracted hereunder:-

5. At the stage of initial operation of a roster, it will be necessary to adjust the existing appointments in the roster. This will also help in identifying the excesses shortages, if any, in the respective categories in the cadre. This may be



done starting from the earliest appointment and making an appropriate remark- “utilized by SC/ST/OBC/Gen”, as the case may be, against each point in the rosters as explained in the explanatory notes appended to the model rosters. In making these adjustments, appointments of candidates belonging to SCs/STs/OBCs which were made on merit (and not due to reservation) are not to be counted towards reservation so far as direct recruitment is concerned. In other words, they are to be treated as general category appointments.

6. Excess, if any, would be adjusted through future appointments and the existing appointments would not be disturbed.

Annexure-I

Initial Operation

1. At the point of initial operation of the roster, it will be necessary to determine the actual representation of the incumbents belonging to different categories in cadre vis-a-vis the points earmarked for each category, viz., SC/ST/OBC and General in the roster. This may be done by plotting the appointments made against each point of roster starting with the earliest appointee. Thus, if the earlier appointee in the cadre happens to be a candidate belonging to the Scheduled Castes, against point No.1 of the roster, the remark “utilized by SC” shall be entered. If the next appointee is a general



category candidate, the remark “utilized by general category” shall be made against point No.2 and so on and so forth till all appointments are adjusted in the respective rosters. In making these adjustments, SC/ST/OBC candidates on merit, in direct recruitment, shall be treated as general category candidates.

2. After completing the adjustments as indicated above, a tally should be made to determine the actual percentages of representation of appointees belonging to the different categories in the cadre. If there is an excess representation of any of the reserved categories, or if the total representation of the reserved categories exceeds 50%, it shall be adjusted in the future recruitment. Vacancies arising from retirement, etc., of candidates belonging to such categories shall be filled by appointment of candidates belonging to the categories to which the relevant roster points, against which the excesses occur, belong.

3. Since recruitment is generally vacancy-based, it may happen that the actual number of promotees and direct recruits in the cadre does not correspond to the number of posts earmarked in the respective reservation roster. For the purpose of calculations of representation of reserved category in a cadre total of promotees and direct recruits may be taken. Rectification of the representation as per prescribed percentage by the prescribed mode of recruitment



Writ Petition No.7865 of 2023

at the earliest possible should, however, be the goal.

WEB COPY

18. In the present case, admittedly, the post of ADFO was a singular post in the year 1997 and became plural thereafter. If the case of the petitioner is to be accepted then by applying the Official Memorandum, one post would be reserved for Scheduled Caste in perpetuity. This had been deprecated by the Hon'ble Apex Court in the case of ***Post Graduate Institute of Medical Education & Research v. Faculty Assn.***, reported in ***(1998) 4 SCC 1***.

19. A thorough reading of the said judgment would indicate that the learned Solicitor General who had appeared for the Union of India had relied upon the very same OM that had been now relied upon by the learned Senior Counsel appearing for the petitioner. The Hon'ble Apex Court had categorically held that by application of roster as claimed by the Government cannot whittle down the right of other categories to be appointed to the said post. For better appreciation, the relevant paragraphs are extracted hereunder:-

31. There is no difficulty in appreciating that there



is need for reservation for the members of the Scheduled Castes and Scheduled Tribes and Other Backward Classes and such reservation is not confined to the initial appointment in a cadre but also to the appointment in a promotional post. It cannot however be lost sight of that in the anxiety for such reservation for the backward classes, a situation should not be brought about by which the chance of appointment is completely taken away so far as the members of other segments of the society are concerned by making such a single post cent per cent reserved for the reserved categories to the exclusion of other members of the community even when such a member is senior in service and is otherwise more meritorious.

35. Hence, until there is plurality of posts in a cadre, the question of reservation will not arise because any attempt of reservation by whatever means and even with the device of rotation of roster in a single post cadre is bound to create 100% reservation of such post whenever such reservation is to be implemented. The device of rotation of roster in respect of single post cadre will only mean that on some occasions there will be complete reservation and the appointment to such post is kept out of bounds to the members of a large segment of the community who do not belong to any reserved class,



but on some other occasions the post will be available for open competition when in fact on all such occasions, a single post cadre should have been filled only by open competition amongst all segments of the society.

20. Even though, the aforesaid judgment relates to a single post cadre, by applying the principles that had been laid down in the said judgment and if the Official Memorandum, dated 02.07.1997 is applied to the post of ADFO, then there should be a post that is for a reserved category and this cannot be allowed. Hence, the stipulations made in the above said Official Memorandum cannot be applied even though, it is for the plural post cadre. This would not mean that the vacancy that arise in the said post should not be filled up by following the roster point. As rightly pointed out by the learned Special Government Pleader by applying the principles laid down by the Hon'ble Apex Court in the aforesaid judgment only when the post had become plural, the appointees could be reckoned for applying the roster points and till such time, roster point cannot be applied and as noted above, such roster point has also not been applied by the Department in the promotion to the post of ADFO.

21. In such an event, we hold that the roster point had been correctly



Writ Petition No.7865 of 2023

applied by the respondents 1 to 4 and we do not find any merits in the Writ
Petition.

22.In fine, the Writ Petition fails and accordingly, the same is
dismissed. Consequently, connected Miscellaneous Petition is also closed.
However, there shall be no order as to costs.

(C.V.K.,J.)

(K.B., J.)

27.02.2026

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation:Yes/No
Pbn



Writ Petition No.7865 of 2023

WEB COPY

To

- 1.Union of India,
By Government of Puducherry
Rep., by its Chief Secretary,
Secretariat, Puducherry – 1.
- 2.The Secretary to Government,
Fire Services Department, Secretariat,
Government of Puducherry,
Puducherry -1.
- 3.The Additional Secretary to Govt.,
Home Department, Secretariat,
Government of Puducherry,
Puducherry -1.
- 4.The Divisional Fire Officer,
Fire Service Department,
Government of Pondicherry – 605 001.
- 5.The Central Administrative Tribunal,
Madras Bench,
Rep., by its Registrar,
Chennai – 600 104.



WEB COPY



Writ Petition No.7865 of 2023

C.V. KARTHIKEYAN., J.
and
K.KUMARESH BABU., J.

Pbn

Pre-Delivery Order in
Writ Petition No.7865 of 2023
& WMP.No.8116 of 2023

27.02.2026