

CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH

Dated the ^{20th} OA/310/01481/2013
day of December Two Thousand Eighteen

PRESENT

HON'BLE MR. P. MADHAVAN, Member (J)
&
HON'BLE MR. T. JACOB, Member (A)

J.Mukundan, S/o Jagadeesan,
aged 38 years, working as,
Station Fire Officer,
Yanam Fire Station.
And residing at Type-3,
Fire Service Quarters,
D-Nagar Fire Station, Puducherry.

....Applicant

By Advocate M/s. V. Ajayakumar

Vs

1.Union of India, rept by
The Government of Puducherry through,
The Secretary to Government (Fire Service),
Chief Secretariat, Puducherry.

2.Additional Secretary to Govt. (Home),
Chief Secretariat, Puducherry.

3.Divisional Fire Officer,
Fire Service Department,
Puducherry.

....Respondents

By Advocate Mr. R. Syed Mustafa



ORDER

(Pronounced by Hon'ble Mr. T. Jacob, Member(A))

Heard. The applicant has filed this OA seeking the following relief:

"To call for the records of the respondents with No. 1422/Home/PPT-III/2012 dated 23.09.2013 and to quash the same and consequently to direct the respondents to promote the applicant to the post of Assistant Divisional Fire Officer on condition to pass the Fire Officer Course conducted by the National Fire Service College, Nagpur and to pass such other or further orders in the interest of justice and thus render justice."


2. The facts of the case as stated by the applicant are as follows:-

The applicant joined service on 03.11.2000 as Station Fire Officer. The applicant submits that the next promotional avenue available to the post of Station Fire Officer is Assistant Divisional Fire Officer and the said post is filled up by way of promotion from Station Fire Officers with 8 years service in the grade and passed Station Officer Course conducted by the National Fire Service College, Nagpur. The eligibility criteria prescribed for Divisional Officer Course is that the candidates should possess Heavy Motor Vehicle Driving License with two years experience. The applicant became qualified for the said post as prescribed in 2002 and the applicant has been waiting for the sponsorship for all these years and not given opportunity to undertake the said professional course. It is submitted that for the first time after the appointment of the applicant, the 2nd respondent had issued a Circular on 24.04.2013, calling for willingness of the candidates and the applicant is the only candidate who opted for the sponsorship under Government quota and formally given the willingness representation to the concerned authority in order to send the applicant to undertake a said



professional course and it was stated that the candidates should directly approach the College for admission. On the basis of the said circular, the applicant contacted the College and it has been specifically given in the Information Bulletin of the said Course in the College that "if any candidate approaches to this college directly or indirectly regarding admission, his candidature shall stand cancelled and strict action will be taken against him". Hence the applicant once again approached the authorities for sponsoring his name for the course. In the meantime, the respondents have issued the impugned Circular calling for applications for filling up the post of Assistant Divisional Fire Officer in the Fire Service Department on deputation basis. The request of the applicant to stop the deputation till the applicant completes the course or to give applicant promotion subject to the conditions of completing the course within one year or two years has not been considered by the respondents. The intention of denying promotion to the applicant and to appoint some other persons on deputation and to absorb them in service is most arbitrary and discriminatory. Hence the applicant has filed this OA seeking the above relief.

3. The respondents have filed reply. The respondents would submit that the applicant would be eligible for promotion only if he fulfils all the essential eligibility criterias prescribed under the existing Recruitment Rules. The incumbent station officers are eligible to be promoted as Assistant Divisional Fire Officer only if he completes "Station Officer and Instructors Course" conducted by National Fire Service College, Nagpur. The respondent would



submit that one more eligible candidate viz, Thiru. Rithosh Chandra is also available in the Fire Service Department, Puducherry who is also senior to the applicant based on merit and the final seniority list dt. 15.04.2005. As per the rules for the professional courses proposed by the Ministry of Home Affairs, National Fire Service College, the experience prescribed for "Station Officers and Instructor's Course" is that the course sponsored candidate must have 2 years regular service as Sub Officer/5 years as Leading Fireman or Driver-cum-Pump Operator. The applicant never expressed his willingness to undergo station officers and instructors course when the same was circulated. Further, the 2nd respondent notified a circular dated 24.04.2013 in which the Station Officers were instructed to apply online and the copy of the online application has to be forwarded through the Divisional Fire Officer, Fire Service Department, Puducherry to National Fire Service College, Nagpur. The respondent would submit that the method of recruitment for the post of Assistant Divisional Fire Officer is by promotion, failing which by transfer on deputation and while considering the incumbent Station Officers for promotion, from the post of Station Officer who have completed probation and have put in eight years of service in the grade and have passed Station Officer and Instructors Course conducted by National Fire Service College, Nagpur, nobody was found eligible. Hence, the Government of Puducherry has decided to fill up the post of Assistant Divisional Fire Officer on deputation basis. The respondents would submit that the applicant was relieved of his duties with effect from the



afternoon of 04.07.2014 with instruction to report before the Director, National Fire Service College, Nagpur on 07.07.2014 to undergo 71st Station Officer's Training and Instructors Course commencing from 07.07.2014 to 26.12.2014 at National Fire Service College, Nagpur and he has successfully completed the training and reported to duty on 29.12.2014.

4. The learned counsel for the applicant would submit that the applicant has not been sponsored for the course even though the applicant became eligible for sponsorship in 2002 itself and non-sponsorship of the applicant for the course conducted by the National Fire Service College, Nagpur cannot be taken as a ground for denying promotion to the applicant. Further, he has contended that the request made by the applicant for considering him for promotion subject to the condition of completing the course within a period of one year or two years has not been considered by the department which clearly shows that the intention is to appointment some other persons on deputation and to absorb him in service.

5. The learned counsel for the respondents would submit that the applicant underwent 71st Station Officer's Training and Instructors Course commencing from 07.07.2014 to 26.12.2014 at National Fire Service College, Nagpur. He has successfully completed the training and has become eligible for consideration for promotion to the post of Assistant Divisional Fire Officer after successfully completing the training on 29.12.2014. Further, the deputation notification was not given effect to and the vacant post of Assistant Divisional Fire Officer was



subsequently filled up by promotion by an officer senior to the applicant who met the eligibility requirements as per the Recruitment Rules.

6. We have carefully considered the relevant material and rival submissions.

7. The eligibility clause for the post of Assistant Divisional Fire Officer as per the existing Recruitment Rules dt. 18.12.1998 of the Home Department, Government of Puducherry is as follows:-

i. the Station Officer who have completed probation and have put in eight years of service in the grade.

ii. Have passed Station Officer and Instructors Course conducted by National Fire Service College, Nagpur.

As per the Recruitment Rules for the post of Assistant Divisional Fire Officer dt. 18.12.1998 of the Home Department, Government of Puducherry, the method of recruitment for the post of Assistant Divisional Fire Officer is by promotion, failing which by transfer on deputation. Admittedly, the applicant or for that matter none else fulfils the qualification as per the Recruitment Rules, consequent to which, under the failing which clause, alternative method of deputation was notified. As per the assertion of the applicant that he became eligible for being sponsored for Station Officers and Instructors Course since 2002. Mere eligibility would not suffice. There must be an express willingness to undergo the course as and when the same was circulated, which the applicant chose not to express. It was under these circumstances that the Government of Puducherry has decided to fill up the post of Assistant Divisional Fire Officer on



deputation basis as nobody was found eligible and the same is strictly in accordance with the Rules. Again, the deputation being for a specific period, on the expiry of the term of deputation, subject to availability of eligible candidates available for consideration for promotion, the respondent would accordingly fill up the post by promotion. As such, there is no question of any ill intention to deny promotion to the eligible candidates in the feeder cadre. There is no vested right for promotion and only right for consideration of promotion. And consideration can be given only when an individual fulfils all the conditions for promotion.

8. In view of the above, the applicant is not entitled to be granted for the relief as prayed for. Since the applicant has successfully completed the training course at National Fire Service College, Nagpur, he becomes eligible for consideration for promotion to the post. As and when the next vacancy arises as per the Recruitment Rules, the post shall be filled up on the basis of promotion by considering all the eligible candidates subject to other requirements being fulfilled. The respondents shall act accordingly. The OA is disposed of with the above directions.

9. No costs.