

IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 20.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Review Application No.210 of 2015 in W.A. No.1409 of 2013

The Commissioner of Agriculture,
Chepauk,
Chennai-5.

... Applicant/ Appellant

versus

C.Rajendran

... Respondent / Respondent

Prayer: Review Application filed under Order 47, Rule 1 read with 114 of C.P.C. to review the judgment dated 18.12.2013 made in W.A. No.1409 of 2013 on the file of this Court.

Prayer in WA.No.1409 of 2013: Filed under Clause 15 of the letters patent against the order of the learned single Judge made in W.P.No.489 of 2012 dated 13.08.2012. Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondent too consider the name of the petitioner for promotion to the post of Assistant. Directors of Agriculture/ Horticulture in the existing vacancies, within a time frame as may be fixed by this Hon'ble Court by placing him in the order of seniority as per the original list of seniority.

For Applicant : Mr.S.Silambanan,
Additional Advocate General
Assisted by
Mr.V.Manoharan,
Government Advocate

For Respondent : Ms.Selvi Rajesh

JUDGMENT

(Judgment of this Court was delivered by T.RAJA, J.)

This Review Application has been filed to review the judgment dated 18.12.2013 passed by this Court in W.A. No.1409 of 2013.

2.Mr.S.Silambanan, learned Additional Advocate General, assisted by Mr.V.Manoharan, learned Government Advocate appearing for the applicant submitted that since the respondent/writ petitioner suffered with a penalty of censure on 30.12.2006 and another penalty of stoppage of increment for six months without cumulative effect on 29.07.2006, his name was not considered for promotion to the post of Assistant Directors of Agriculture/Horticulture. As the crucial date was 01.04.2007, the respondent/writ petitioner is not entitled to get the benefit of the order dated 13.08.2012 passed by the learned Single Judge in W.P. No.489 of 2012, wherein a direction was given to the applicant to include the name of the respondent in the panel of the year 2007-08 for promotion to the post of Assistant Director of Agriculture within a period of six weeks and the said order was confirmed by the Division Bench vide judgment dated 18.12.2013 in W.A. No.1409 of 2013. Learned Additional Advocate General further submitted that the Government has brought in Tamil Nadu Government Servants (Conditions of Service) Act, 2016, in which Schedule-XI PART-A (11) makes the position very clear that any punishment (other than 'Censure') imposed on a member of service within a period of five years prior to the crucial date and a punishment of 'Censure' imposed within a period of one year prior to the crucial date, shall be held against the member of service and his name shall not be considered for inclusion in the approved list and any punishment, including 'Censure' imposed on a member of service after the crucial date, but, before actual promotion or appointment, shall be held against the member of service and he shall not be given promotion or appointment. Since the normal date of increment of the respondent falls on 1st July of every year and the said Act has also been given retrospective effect from the year 1955, the respondent is not eligible to be included in 2007-08 panel.

3.But, we are unable to find any merit on the said contention made by the learned Additional Advocate General. Firstly, when the writ petitioner came to this Court with the W.P. No.489 of 2012 seeking for issuance of mandamus directing the applicant to consider his name for promotion to the post of Assistant Directors of Agriculture/Horticulture in the existing vacancies, the learned Single Judge, finding that the writ petitioner suffered charge memo under 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules on 25.09.2006 and yet another charge memo under Rule 17(a) on 14.02.2006, issued by the Deputy Director of Agriculture, for the lack of supervision and for not properly distributing the sun flower seeds to the farmers respectively, has disposed of the writ petition directing the applicant to include the name of the respondent in the panel of the year 2007-08 for promotion to the

post of Assistant Director of Agriculture within a period of six weeks, in view of the Full Bench judgment of this Court reported in 2011 (3) CTC 129 (the Deputy Inspector General of Police, Thanjavur Range, Thanjavur v. V.Rani). Secondly, when the same was questioned by the Commissioner of Agriculture in W.A. No.1409 of 2013, the said appeal was dismissed by judgment dated 18.12.2013. Thirdly, since the Full Bench of this Court in the judgment of the Deputy Inspector General of Police, Thanjavur Range, Thanjavur v. V.Rani has settled the legal issue way back on 27.04.2011 and the same has been followed by both the learned Single Judge by order dated 13.08.2012 and the Division Bench by judgment dated 18.12.2013, after a gap of three years, the Government has brought in Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which cannot be made applicable in the present case on hand. Therefore, we are not able to find any merit in the Review Application to review the judgment dated 18.12.2013 passed by this Court in W.A. No.1409 of 2013. Accordingly, the Review Application stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

vga

To:

The Commissioner of Agriculture,
Chepauk, Chennai.

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RSV(CO)
SB(13/12/2021)