

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.32411/2015 & MP.No.1/2015

S.Kumarasamy

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Petitioner

Versus

The Director of Agricultural
Marketing and Agri Business
Guindy, Chennai 600 032.

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus directing the respondent to consider the appeal petition submitted by the petitioner dated 09.01.2015 and the subsequent Appeal petitioner dated 24.07.2015 and to revise the seniority of the petitioner in the post of Superintendent of Market based on State Seniority as on 16.08.1995, by reckoning the date of initial appointment of the petitioner with consequential notional promotion and to consider the petitioner for promotion to the post of Secretary of Market Committee within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondent : Mr.N.Srinivasan, AGP

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner was initially appointed as Junior Assistant in Pudukottai Market Committee on 31.03.1982, which comes under the Department of Agricultural Marketing and Agri Business. According to the petitioner, the said post is governed by Special Rules for Tamil Nadu Agricultural Marketing Subordinate Services and as per the said rules, prior to amendment, each Market Committee, shall be treated as a Unit for appointment, promotion, seniority and other conditions of services. The petitioner was transferred to Trichy Marketing Committee on 23.02.1988 in order to accommodate Tmt S.Kumudha, Junior Assistant and therefore, the petitioner was transferred

from one Unit to another within the Special Rules and thereby, his seniority gained in Pudukottai Marketing Committee, is sought to be negated. The petitioner, in this regard, submitted his representation and vide proceedings of the Secretary of Trichy Market Committee dated 17.10.1988, the seniority was revised and therefore, he is entitled to seniority notwithstanding the Unit transfer which was made against his wish and will. The petitioner also submitted a representation to the Trichy Market Committee, for his promotion to the post of Supervisor and to consider the same, the 2nd respondent has issued proceedings dated 04.04.1996, calling upon the petitioner to forego his seniority on his transfer to Trichy Market Committee, failing which, he will be transferred to Pudukottai Market Committee. The petitioner has also exercised the said option on compulsion and he was placed as junior most in the seniority list, prepared for the year 1996 and was given promotion to the post of Superintendent on 09.07.2010 and at present, working as Inspector of License premises in the cadre of Superintendent of Market. The grievance expressed by the petitioner is that as per G.O.Ms.No.449, Agricultural Department dated 16.08.1995, Rule 9 came to be amended as follows:-

"9.Unit of Appointment:-

"For the purpose of appointment to the service, seniority, discharge of probationers for want of vacancy, re-appointment of probationers, approved probationers, appointment of full members and promotion in all the Market Committees, the State of Tamil Nadu shall be a single unit."

Since it has not been implemented while preparing the State Wide seniority list, WP [MD] No.2622/2004 was filed and this Court, vide order dated 19.07.2007, has directed the respondents to prepare common seniority list and challenging the legality of the same, WA [MD] No.387/2008 was filed and it was dismissed on 16.06.2009 and as a consequence, proceedings were initiated by the respondents for preparation of the State Wide Seniority List and the rules were also amended. The petitioner, in this regard, has submitted a representation dated 20.04.2015 to revise the seniority from the date of his promotion on notional basis as per the amended rules based on State Wide Seniority List and since no orders have been passed, he filed an appeal petition dated 24.07.2015 to the respondent herein and as there is no response, he came forward to file this writ petition.

3 Heard the learned counsel for the petitioner and Mr.N.Srinivasan, learned Additional Government Pleader who accepts notice on behalf of the respondent.

4 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the same, directs the respondent to consider and dispose of the petitioner's appeal petition dated 24.07.2015 on merits and in accordance with law, after putting on notice the persons concerned and pass orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the persons concerned.

5 The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

AP

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

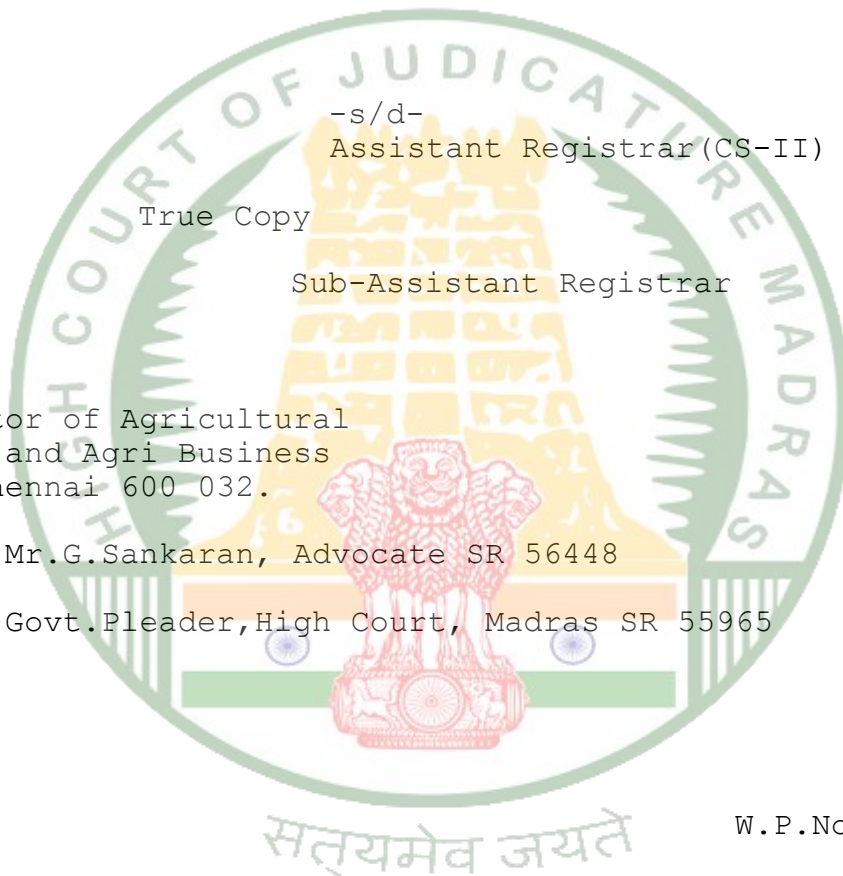
To

The Director of Agricultural
Marketing and Agri Business
Guindy, Chennai 600 032.

+ 1 cc to Mr.G.Sankaran, Advocate SR 56448

+ 1 cc to Govt.Pleader, High Court, Madras SR 55965

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