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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Appeal (MD) Nos.1087 to 1090 of 2015 and
WP(MD)Nos.12219 to 12222 of 2015

P.Tamilselvi	..Appellant in WA(MD)No.1087/2015
C.Chandrasekaran	..Appellant in WA(MD)No.1088/2015
N.V.Krishnamoorthy	..Appellant in WA(MD)No.1089/2015
S.Renganathan	..Appellant in WA(MD)No.1090/2015

Vs.

1.State of Tamilnadu
rep.by its Secretary to Government,
Agriculture Department
Fort St.George, Chennai - 600 009.

2.The Director of Horticulture &
Plantation Crops
Chepauk, Chennai - 600 005.

3.The Director of Agriculture,
Chepauk, Chennai - 600 005.

4.Tamil Nadu Horticulture Officers Welfare Association
(Regd. No.541/99)
8/1, Sudha Avenue Street,
Chitlapakkam
Chennai - 600 064.

..Respondents in all W.As.

Prayer: Writ Appeals filed under clause 15 of the Letters Patent against the order dated 21.09.2015 passed in MP(MD)Nos.1 to 1 of 2015 in WP(MD)Nos.12219 to 12222 of 2015 by this Court.

Common Prayer in MP(MD).1 to 1/2015 in WP(MD).12219 to 12222/2015 :

Miscellaneous Petitions filed praying to issue an order of Interim Injunction, restraining the Respondents from filling up the vacancies, arising out of the 595 posts deployed from the Agriculture Department to the Horticulture Department vide G.O.Ms.No.537 dated 24.12.2007 from persons belonging to the Horticulture Department pending disposal of the writ petitions.

For Appellants	: Mr.R.P.Kabilan Senior Counsel for M/s.Swarnam J.Rajagopalan
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For Respondents	: Mr.K.Chellapandian Additional Advocate General assisted by Mr.A.K.Baskarapandian Spl.Government Pleader.
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P.Tamilselvi

..Petitioner in WP(MD)No.12219/2015

C.Chandrasekaran

..Petitioner in WP(MD)No.12220/2015

N.V.Krishnamoorthy

..Petitioner in WP(MD)No.12221/2015

S.Renganathan

..Petitioner in WP(MD)No.12222/2015

vs.

1.State of Tamilnadu

rep.by its Secretary to Government,
Agriculture Department
Fort St.George, Chennai - 600 009.

2.The Director of Horticulture &
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Chepauk, Chennai - 600 005.

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Chepauk, Chennai - 600 005.

4.Tamil Nadu Horticulture Officers Welfare Association
(Regd. No.541/99)

8/1, Sudha Avenue Street,
Chitlapakkam,

Chennai - 600 064 rep.by its State President

(R4 impleaded vide order dated 21.09.2015) ..Respondents in all W.Ps.

Common Prayer: These Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the 595 posts deployed from the Agriculture Department to the Horticulture Department vide G.O.Ms.No.537 dated 24.12.2007 should go along with the individuals/persons deployed from the Agriculture Department to the Horticulture Department and consequently to hold that their appointment promotion seniority and other service benefit ought not to be affected in any manner and restrain any appointment and promotion in respect of persons in the Horticulture Department from claiming in the deployed 595 posts.

For Petitioners	: Mr.R.P.Kabilan Senior Counsel for M/s.Swarnam J.Rajagopalan
For Respondents 1 to 3	: Mr.K.Chellapandian Additional Advocate General assisted by Mr.A.K.Baskarapandian Spl.Government Pleader.

COMMON JUDGMENT

(Judgment of the Court was delivered by R.SUDHAKAR,J.)

These writ appeals have been filed against the modified interim order dated 21.09.2015 passed by the learned Single Judge in MP(MD)Nos.1 to 1 of 2015 in WP(MD)Nos.12219 to 12222 of 2015, which reads as follows:



"Any promotion, appointment or posting made during the pendency of the writ petitions shall be subject to the result of these writ petitions."

2.The writ petitions have been filed to declare that the 595 posts, deployed from the Agriculture Department to Horticulture Department vide G.O.Ms.No.537, Agriculture Department, dated 24.12.2007 should go along with the individuals/persons deployed from the Agriculture Department to Horticulture Department and consequently hold that their appointment, promotion, seniority and other service benefits ought not to be affected in any manner and also to restrain from claiming any appointment and promotion in respect of persons in the Horticulture Department in the deployed 595 posts.

3.We find that the writ petitions as well as writ appeals can be disposed of in view of certain admitted facts which are not in dispute.

4.In the writ petitions a counter affidavit has been filed by the second respondent, wherein at paragraph No.22, it has been stated as follows:

"22.I submit that the present writ petitions filed by the persons who are not at all connected with the horticulture department is not at all maintainable as none of their legal right is infringed. I submit that the present position of the 595 posts referred to be the writ petitioner deployed to the Horticulture Department are as follows:

S.No	Name of the post in Horticulture Department	Post Deployed by G.O.No.537	Present position of deployed post	Number of persons opted to remain in Horticulture Department	Number of persons awaiting redeployment to Agriculture Department
			Vacant positioned		
1	Additional Director	2	2 0	0	0
2	Joint Director	2	2 0	0	0
3	Deputy Director	21	21 0	0	0
4	Assistant Director	358	267 91	20	71
5	Horticulture Officer	212	182 30	20	10
	Total	595	474 121	40	81

5.G.O(Ms)No.537, Agriculture Department, dated 24.12.2007 was issued for restructuring the Directorates of Agriculture, Horticulture & Plantation Crops, Seed Certification & Organic Certification, <https://hcservices.ecourts.gov.in/hcservices/> Agricultural Marketing & Agri Business and Tamil Nadu Horticulture Development Agency (TANHODA) in Agriculture Department. Admittedly, based on the announcement made by the Minister for Agriculture on the Floor of

the Assembly on 03.04.2007 that the extension activities of the Directorates of Agriculture, Horticulture etc., have to be integrated to provide better service to the farmers. Therefore, the present G.O.(Ms) No.537, Agriculture Department, dated 24.12.2007 was issued and came to the conclusion that there is excess staff and officers in the Directorate of Agriculture and on the contrary, there is a shortage of staff at critical levels in the other three Directorates of Horticulture, Marketing and Seed Certification etc., Keeping in view the over all objective and giving timely and complete solution to the needs of the farmers, the Government thought it fit to transfer part of staff and posts from the Agriculture Directorate to the other three Directorates.

6.Paragraph - 10 of the said Government Order provides the methods on which the wings should function, how the staff will enjoy the benefits of seniority and promotion, and the same reads as follows:

"The two wings of Agriculture viz., Extension and Research (Chemistry) are currently functioning separately under separate service rules. Rotating of staff between the two wings will enhance the technical and managerial capacity of the staff. Moreover, the qualification for both the cadres is same (i.e) B.Sc (Agri.). Therefore, these two wings will be merged so that in future, there will be only one cadre for managing both extension and research functions. Provisions will be made to ensure that the merger does not affect the seniority, promotional prospects and service conditions of each cadre. Similarly, the staff going to Horticulture, Seeds Certification and Marketing from Agriculture will continue to enjoy the same seniority and promotional prospects they are presently getting in Agriculture Department."

7.Restructuring was done after detail examination by a Chart in paragraph - 8 of the Government Order which reads as follows:

Department	Addl. DA	Jt.DA	Dy. DA	Asst. DA	A.O/H.O	Dy. A.O	Asst.Seed Officer	Asst.Agri Officers	Total
Director of Agriculture	5	29	99	435	1100	337	509	2319	4833
Director of Horticultur e TANHODA	1 1	3 3	33	396 5	405	123	5	1633	2599 9
Director of Seed Certificati on	-	2	16	37	289		-	-	344
Director of Agricultura l Marketing	-	4	29	14	172	52	-	635	906
Total	7	41	177	887	1966	512	514	4587	8691
Additional Requirement	-	-	-	509	-509	512		-512	0



8. Consequent to the restructuring, total number of 595 posts gets deployed along with the equivalent number of staff. This is evident from paragraph - 22 of the counter affidavit filed by the second respondent in the writ petitions which is extracted as above.

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9. Paragraph 17 (x) of the Government Order states about the benefits given to deployed staff which reads as follows:

"Under restructure, with regard to the posts and staff deployed from the Directorate of Agriculture to the Directorate of Horticulture & Plantation Crops, any post falling vacant by way of promotion or retirement of the deployed staff in the Directorate of Horticulture & Plantation Crops, after expiry of 5 years from the date of issue of this Order, the posts shall stand permanently transferred to the Directorate of Horticulture & Plantation Crops and shall be filled up by duly following the Service Rules of the Director of Horticulture & Plantation Crops. In order to maintain fairness and justice and to avoid friction among the staff in awarding promotion and other service benefits, after expiry of 5 years, an opportunity shall be provided to the staff deployed to the Director of Horticulture & Plantation Crops to exercise their option for permanent absorption in the Director of Horticulture & Plantation Crops. The posts in the Directorates of Seed Certification and Organic Certification and Agricultural Marketing & Agri Business shall continue to be filled up from the common cadre managed by the Director of Agriculture.

10. In view of the above, we find no reason as to why the relief as sought for in the writ petitions should be considered at the threshold, as we find that the said Government Order clearly states that 595 posts are to be deployed along with sufficient staff of the Agriculture Department and option is also given to the deployed staff to continue either in the Horticulture Department or go back to the parent Department, for which, period has also been prescribed in 17(x) of the said Government Order.

11. In such view of the matter, the petitioners have no *locus standi* to file the present writ petitions. Besides that, they cannot have a grievance on the said Government Order, so long as they are continuing in the Agriculture Department. Therefore, these writ appeals and writ petitions are dismissed. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To
1. Secretary to Government,
State of Tamilnadu
Agriculture Department
Fort St. George
Chennai - 600 009.



2.The Director of Horticulture &
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Chepauk, Chennai - 600 005.

3.The Director of Agriculture,
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4.The State President,
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+4cc to M/s.Swarnam S.Rajagopal, Advocate in SR.No.60917

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mj
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