

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2016

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.Nos.11992 to 12000, 11340 to 11344, 11626 to 11630,  
11631 to 11635 and 9157 to 9159 of 2016 (Totally 27 WPs.)  
and

WMP Nos.10361 to 10378, 9797 to 9806, 10025 to 10034  
10035 to 10044 and 8159 to 8164 of 2016 (Totally 54 WMPs.)

A.Indirani ...Petitioner in WP.11992 of 2016  
R.Thenmozhi ...Petitioner in WP.11993 of 2016  
M.Maheshearan ...Petitioner in WP.11994 of 2016  
M.S.Chandramala ...Petitioner in WP.11995 of 2016  
P.Anbuchelvi ...Petitioner in WP.11996 of 2016  
C.Jeyalakshmi ...Petitioner in WP.11997 of 2016  
M.Geetha ...Petitioner in WP.11998 of 2016  
M.Udhayakumar ...Petitioner in WP.11999 of 2016  
V.I.Rahamathulla ...Petitioner in WP.12000 of 2016  
R.Kuppusami ...Petitioner in WP.11340 of 2016  
G.Balasubramanian ...Petitioner in WP.11341 of 2016  
C.Janakiraman ...Petitioner in WP.11342 of 2016  
D.Subburaj ...Petitioner in WP.11343 of 2016  
J.Kothandaraman ...Petitioner in WP.11344 of 2016  
R.Nainar Mohamed ...Petitioner in WP.11626 of 2016  
P.Raja ...Petitioner in WP.11627 of 2016  
A.Gomathi ...Petitioner in WP.11628 of 2016  
J.Mohan ...Petitioner in WP.11629 of 2016  
Singara Leena ...Petitioner in WP.11630 of 2016  
G.T.Murali Ragini ...Petitioner in WP.11631 of 2016  
M.Jeyamala ...Petitioner in WP.11632 of 2016  
K.Vijay Priya ...Petitioner in WP.11633 of 2016  
R.Suresh ...Petitioner in WP.11634 of 2016  
D.Gunasekaran ...Petitioner in WP.11635 of 2016  
D.V.Irene Priyadarshini ...Petitioner in WP.9157 of 2016  
K.Jeyalakshmi ...Petitioner in WP.9158 of 2016  
D.Sasirekha ...Petitioner in WP.9159 of 2016

Vs.

The Commissioner of Agriculture,  
Chepauk, Chennai - 5.

...R1 in all WPs

The Joint Director of Agriculture,  
Salem.

...R2 in WPs.11992 & 11632/16

The Joint Director of Agriculture,  
Dharmapuri.

...R2 in WP.11993/16

The Joint Director of Agriculture,  
Kovilpatti ...R2 in WPs.11994 & 11997/16

The Joint Director of Agriculture,  
Dindigul. ...R2 in WP.11995/16

The Joint Director of Agriculture,  
Kanchipuram. ...R2 in WPs.11996,11629,  
11630 & 11633/16

The Joint Director of Agriculture,  
Cuddalore. ...R2 in WPs.11998 & 11341/16

The Joint Director of Agriculture,  
Palayamkottai ...R2 in WP.11999/16

The Joint Director of Agriculture,  
Nagercoil ...R2 in WPs.12000,11631 & 11634/16

The Joint Director of Agriculture,  
Trichy ...R2 in WPs.11340,11342,  
11344 & 11628/16

The Joint Director of Agriculture,  
Virudhunagar. ...R2 in WP.11343/16

The Joint Director of Agriculture,  
Tirunelveli ...R2 in WP.11626/16

The Joint Director of Agriculture,  
Ramanathapuram ...R2 in WP.11627/16

The Joint Director of Agriculture,  
Thiruvannamalai ...R2 in WP.11635/16

The Joint Director of Agriculture,  
Coimbatore ...R2 in WPs.9157 to 9159/16

COMMON PRAYER in W.P.Nos.11992 to 12000, 11340 to 11344, 11626 to 11630, 11631 to 11635 of 2016 : These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified Mandamus, calling for the entire records relating to the impugned order of the 1st respondent in Lr.No.V.A.Ni.1/23672/2016 dated 29.02.2016 and quash the same and consequently direct the respondents from processing further action thereof.

COMMON PRAYER in W.P.Nos. 9157 to 9159 of 2016 : These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a writ of certiorari, calling for the entire records relating to the impugned order of the 1st

respondent in Lr.No.V.A.Ni.1/23672/2016 dated 29.02.2016 and consequent order of the 2nd respondent in No.A.1/2751/16 dated 03.03.2016 and quash the same.

For Petitioners : Mr.L.Chandra Kumar  
in all W.Ps. for M/s.V.T.Balaji

For Respondents : Mr.R.Vijayakumar (for R1 & R2)  
in all W.Ps. Additional Government Pleader

### C O M M O N O R D E R

As the facts pleaded and the submissions advanced are one and the same, all these writ petitions are disposed of by a common order.

2. There are twenty-seven writ petitions filed. Out of them, twenty-four writ petitions have been filed to question the circular dated 29.02.2016 and three writ petitions are filed challenging the consequential transfer order dated 03.03.2016.

3. Mr.L.Chandra Kumar, learned counsel appearing for the petitioners submitted that all the petitioners were selected by the Tamil Nadu Public Service Commission and thereupon got appointed as Agricultural Officer (Chemistry) exclusively on 30.10.1996. The major functionary divisions in the agriculture departments are Extension Wing, Chemistry Wing (Previously known as Research Wing) and Horticulture Wing. Since the nature of works for each divisions are different, the agricultural officers for each divisions are recruited by the Tamil Nadu Public Service Commission separately and the Extension Wing also got separate service Rules known as Tamil Nadu Agricultural Extension Service Rules. Similarly, Research [Chemistry] Wing also got its own separate Service Rule known as Tamilnadu Agricultural Subordinate Service Rules. In view thereof, both departments are having separate panel for promotion. Even in Horticulture wing also they have got a separate panel for promotion and separate service rules are approved.

4. Explaining further, the learned counsel for the petitioners would submit that promotions given under Chemistry Wing is different from the promotions given under Extension Wing. Therefore, subsequently, the Government issued G.O.Ms.No.537 Agriculture (AA 8) Department, dated 24.12.2007, to avoid complications between the Agricultural Officers in both Extension and Chemistry Wings and functionally merged the Agricultural Officers of Extension Wing and Chemistry Wing. In the said Government Order, it has been specifically stated that the seniority and service conditions of the staff of the

Research / extension wing for the purpose of promotional opportunities shall be continued in the respective existing cadre till the incumbents retire from service and thereafter, there will be only one cadre who will man both extension and research activities in Agriculture Directorate and the entry level post shall be Agricultural Officer only.

5. When the Government order in G.O.Ms.No.537 Agriculture (AA 8) Department, dated 24.12.2007, makes it clear that both Extension Wing and Chemistry Wing are functionally merged and as a result, the seniority and service conditions of the staff of the Research / extension wing for the purpose of promotional opportunities shall be continued in the respective existing cadre, till the incumbents retire from service, the Director, ignoring the decision taken by the Government in the aforementioned G.O.Ms.No.537 Agriculture (AA 8) Department, dated 24.12.2007, cannot effect transfer from Chemistry Wing to Extension Wing. If the circular issued by the Commissioner is allowed to stay, the petitioners who are trained specially in the Laboratory Department (Chemistry Department) would be no way able to discharge their functions after transferred to the Extension Wing. As a result, the department will suffer because all along they have been trained only in Chemistry (Laboratory) Department.

6. Adding further, he would submit that the circular is passed contravening the direction given in G.O.Ms.No.537 Agriculture (AA 8) Department, dated 24.12.2007, with regard to the seniority and service conditions of the staff of the Research / extension wing for the purpose of promotional opportunities shall be continued in the respective existing cadre till the incumbents retire from service. Therefore, the Commissioner, who is bound to follow the said G.O.Ms.No.537 Agriculture (AA 8) Department, dated 24.12.2007 cannot issue any contrary circular, which is impugned herein and the consequential order of transfer, since both circular and the consequential order of transfer, which are impugned are going against, G.O.Ms.No.537 Agriculture (AA 8) Department, dated 24.12.2007, which clearly and categorically maintains that the seniority and service conditions of the staff of the Research / extension wing for the purpose of promotional opportunities shall be continued in the respective existing cadre till the incumbents retire from service.

7. Adding further, he would submit that when the Agricultural officers of Extension Wing and Chemistry Wing are functionally merged by the said Government Order, the circular, followed by the transfer order cannot take away the petitioner's seniority right, who are working in the Chemistry Wing to the Extension Wing.

8. Continuing his arguments, he would further state that even after the merger policy adopted by the Government in the aforementioned G.O.Ms.No.537 Agriculture (AA 8) Department, dated 24.12.2007, the petitioners are prepared to work in the Chemistry Wing, even after transfer for which they do not have any objection. But if they are transferred out from the Chemistry Wing to Extension Wing, as they have been trained specially in the Laboratory Wing, their performance would cause a huge detrimental effect to the extension wing. Therefore, the impugned circular and the consequential order of transfer are liable to be interfered with in the interest of the department.

9. Learned counsel for the petitioners further contended that although the impugned circular and transfer orders are against all the Canons of Law and principles of natural justice, while they have not been put to any notice, the respondents have completely overlooked one vital aspect that they have got a special qualification based on which their selections and appointments were made by the competent authority. In view of the fact that they have been allowed to work continuously in the Chemistry (Laboratory) Wing, they are ineligible and unqualified person to work in the extension wing. Moreover, the Rules governing the officers working in the Extension Wing are completely different from the Tamilnadu Agricultural Subordinate Service Rules, to which the petitioners were appointed in the Chemistry Wing. Therefore, the impugned circular and the consequential transfer order are liable to be set aside as they are against G.O.Ms.No.537 Agriculture (AA 8) Department, dated 24.12.2007.

10. A detailed counter affidavit has been filed by the respondents. Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents would submit that the Government of Tamilnadu after taking a policy decision of integration of the posts, issued a consolidated guidelines on such integration about the service conditions etc., in G.O.Ms.No.537 Agriculture (AA 8) Department, dated 24.12.2007 and at Paragraph No.17[i] of the said Government Order categorically states that the Extension Wing and Research Wing [Chemistry] shall be functionally merged. However, to safeguard the interest of respective officers in the respective wing for the purpose of promotion, seniority alone shall be continued till the incumbent retires from service. Except the above safeguard, all the Agricultural Officers after merger are liable for transfer as per Service Rules by the Joint Director of Agriculture, within the region. While so, no employee can question or object the transfer which is purely for administrative exigencies, when there is no rule after amendment that the transfer of Agricultural Officer from one place to another place should be done by the Government as sought to be contended by the petitioners in the present

writ petitions and the prayer challenging the circular and the consequential order of transfer are liable to go.

11. Adding further, he would submit that series of complaints were received from various Agricultural officers that a section of Agricultural Officers are stagnating in the same post in the same place without allowing other Agricultural Officers to gain experience in the (i) laboratory (ii) Seed certification and organic certification department (iii) Agricultural Marketing department and considering the above complaints the 1st respondent after analysing all the representations and also ill motive of certain officers pressurising the authorities for retention in the same place either in one post or other for continuous period of more than 5 years, 10 years, 15 years and some times 20 years, in order to prevent others from getting posted in such places and to avoid great administrative trouble to the authorities concerned, the present circular dated 29.02.2016 has been issued making it clear that the Agricultural officers are liable for transfer after completion of three years in (i) laboratory (ii) seed certification and organic certification department (iii) Agricultural marketing department.

12. The circular further reads that after completion of three years the individual will be transferred to Extension Wing where they have to work three years tenure and the learned Additional Government Pleader would submit that the very same circular further makes it clear that after completing the above tenure, they can opt for the above said three departments again. Thereafter, they have to once again work in the Extension Wing after completion of three years. Therefore, when the officer is not entitled to continue for more than nine years in a post after combining 3 terms in the aforementioned three departments viz. (i) Laboratory, (ii) Seed certification and organic certification and Agricultural marketing department, the petitioners cannot have any grievance.

13. Adding further, he would submit that the circular impugned herein has been passed only after proper consideration of the performances made by various officers in the respective departments. Since, the Director has come to the conclusion that the officers working in the chemistry wing are not given with sufficient work, therefore, should be taken to extension wing so that they will be able to produce some result, the petitioners cannot question the decision taken in the interest of the administration. More particularly when the promotional seniority of all the officers working in the Chemistry wing are going to be safeguarded, till they retire from service.

14. I fully agree with the stand taken by the respondents. The reason is, as contended by the learned counsel for the petitioners, the G.O.Ms.No.537 Agriculture (AA 8) Department, dated 24.12.2007, no doubt says that the extension wing and research wing shall be functionally merged with further protection to the officers working in the chemistry wing that the seniority and service conditions of the staff of the Research / extension wing for the purpose of promotional opportunities shall be continued in the respective existing cadre till the incumbents retire from service and thereafter, there will be only one cadre who will man both extension and research activities in Agriculture Directorate and the entry level post shall be Agricultural Officer only. But, that can never be construed that even after the merger of extension wing and research wing (Chemistry) in the department of agriculture, they will be continued in the respective existing cadre till the incumbents retire from service, although they are left without work. The circular impugned herein clearly shows that the person working in one wing of the Chemistry department are not giving any chance to other incumbents to acquire experience in the laboratory. Therefore, the Director has rightly come to the conclusion that the experience required to be acquired in the chemistry department have to be given to the persons. Pursuant thereof, he has issued the circular and also consequential order of transfer. Therefore, this Court is not able to find any infirmity in the circular and therefore, the consequential order also has to be affirmed.

15. While disposing of the writ petitions for the above mentioned reasons, it is made clear that as assured in G.O.Ms.No.537 Agriculture (AA 8) Department, dated 24.12.2007, the seniority and service conditions of the staff of the Research / extension wing for the purpose of promotional opportunities shall not be discontinued in the respective existing cadre till the petitioners retire from service. Further, the petitioners in W.P.No. 9157 to 9159 of 2016, those who have been served with transfer orders and have not joined yet, are given a week's time from today, to join the new station. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS II)

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To

Sub Assistant Registrar

1. The Commissioner of Agriculture,  
Chennai - 5.

2. The Joint Director of Agriculture,  
Salem.
3. The Joint Director of Agriculture,  
Dharmapuri.
4. The Joint Director of Agriculture,  
Kovilpatti
5. The Joint Director of Agriculture,  
Dindigul.
6. The Joint Director of Agriculture,  
Kanchipuram.
7. The Joint Director of Agriculture,  
Cuddalore.
8. The Joint Director of Agriculture,  
Palayamkottai
9. The Joint Director of Agriculture,  
Nagercoil
10. The Joint Director of Agriculture,  
Trichy
11. The Joint Director of Agriculture,  
Virudhunagar.
12. The Joint Director of Agriculture,  
Tirunelveli
13. The Joint Director of Agriculture,  
Ramanathapuram
14. The Joint Director of Agriculture,  
Thiruvannamalai
15. The Joint Director of Agriculture,  
Coimbatore

+25cc's to Mr.V.T.Balaji, Advocate, S.R.Nos.20583 & 20473

+1cc to the Government Pleader, S.R.No.20523

W.P.Nos.11992 to 12000, 11340 to 11344, 11626 to 11630,  
11631 to 11635 and 9157 to 9159 of 2016 (Totally 27 WPs.)

and

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10035 to 10044 and 8159 to 8164 of 2016 (Totally 54 WMPs.)

RV(CO)

CA(18/04/2016)

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