

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.5210 of 2007 (T)

O.A.No.5839 of 2002

The Tamil Nadu Agriculture
Graduate Association,
Rep. By its President Mr.T.Stanli,
No.45, Sait Colony,
2nd street, Chennai. Petitioner

Vs.

1.The Agriculture Production Commissioner
and Secretary to Government,
Agriculture Department,
Fort St. George, Chennai.

2.The Director of Agriculture,
Chepauk, Chennai. Respondents

PRAYER: Writ Petition came to be numbered by transfer of O.A.No.5839 of 2002 on the file of the Tamil Nadu Administrative Tribunal praying to call for the records relating to the order of the first respondent dated 24.09.2002 issued in the letter No.19236/AA.V/2000-17 and quash the same and further direct the respondent to pay incentive to the members of the petitioner association for the post graduate qualification from the next day of M.Sc. Examination.

For Petitioner : Mr.R.Muthukannu

For Respondents :Mr.A.Kumar, Spl.GP

ORDER

The petitioner filed O.A.No.5839 of 2002 before the Tribunal seeking to quash the order of the first respondent passed in letter No.19236/AA.V/2000-17, dated 24.09.2002, with a further direction to the respondent to pay the incentive to the members of the petitioner's association for the Post Graduate qualification from the next day of M.Sc. Examination. On abolition of the Tribunal, the same was transferred to the file

of this Court and renumbered as W.P.No.5210 of 2007.

2. Originally, by virtue of G.O.Ms.No.570, Agriculture (AA1) Department, dated 01.04.1978, two increments for acquiring P.G. Degree in Agriculture subject were awarded. Subsequently, the same was replaced vide G.O.Ms.No.843, P&AR (FRII) Department, dated 05.09.1983, by way of sanctioning lump-sum grant with certain conditions. It is further seen that the Government reviewed the scheme of sanctioning lump-sum grant and thereby, it has decided to withdraw the said scheme and reintroduced the scheme granting two increments vide G.O.Ms.No.1159, P&AR(FRII) Department, dated 21.11.1984. However, the Government, vide letter No.23270, P&AR (FRII) Department, dated 06.05.1985, clarified the issue further stating that the conditions specified in G.O.Ms.No.843, P&AR (FRII) Department, dated 05.09.1983, were not cancelled and hence, those conditions are still there for sanctioning advance increments on or after 05.09.1983. Such clarification issued by the Government was challenged before the Tribunal, which was transferred to the file of this Court and renumbered as W.P.No.22933 of 2007.

3. In the meantime, those persons who have acquired the P.G. Degree on or after 05.09.1983 approached the Government, whereby the Government, vide G.O.Rt.No.627, Agriculture (T&V) Department, dated 12.11.1991, rejected their claim on the ground that they acquired the same at the cost of the Government after 05.09.1983 and hence, they were not eligible. Challenging the same, 22 Assistant Agricultural Officers filed O.A.No.2571 of 1992, whereby the Tribunal, in its order dated 12.11.1991, quashed the rejection order passed in G.O.Rt.No.627, Agriculture (T&V) Department, dated 12.11.1991, as it violates Articles 14 and 16 of the Constitution of India. Such order of the Tribunal was implemented by the Government not only to the 22 persons approached the Court, but also to the other similarly placed 105 persons who have acquired the P.G. Degree during the period from 05.09.1983 to 06.05.1985, vide G.O.(D).No.65, Agriculture (AAV) Department, dated 24.07.1998. Thereafter, similarly placed persons approached the Government seeking the same relief as given to 127 persons, however, the first respondent, by way of passing the present impugned order, has rejected their claim. Thus, the present writ petition with a prayer cited supra.

4. Now, it is contended by the learned counsel for the petitioner that during the pendency of the Original Application, the Government, vide G.O.Ms.No.97, P&AR(FRIV) Department, dated 05.07.2010, clarified that the amendment shall come into force on the date of issue of the order, namely, 05.07.2010. Therefore, he submitted that since members of the petitioner's association acquired P.G. Degree during 1985-1987 to 1994-1995, they are entitled to get the advance increments as give to 127

similarly placed persons.

5. The only contention of the learned Special Government Pleader appearing for the respondents is that the present writ petition filed by the association is not maintainable. It is further submitted that since many of the members of the petitioner's association would have retired from service by now as the Original Application was of the year 2002, it is not practically possible to identify them and therefore, in view of such practical impossibility, the claim of the members of the petitioner's association to consider their prayer in view G.O.Ms.No.97, P&AR (FRIV) Department, dated 05.07.2010, cannot be considered now at this later point of time.

6. Heard both sides.

7. First of all, the writ petition is not maintainable which is filed by an association as no grievance is made out for the individual nor any individual has come forward to file this writ petition. This apart, even on merits, the present writ petition is not maintainable. No doubt, 127 persons, who have acquired P.G. Degree during the period from 05.09.1983 to 06.05.1985, were granted incentive increments. But, in the case on hand, identifying the members of the petitioner's association is not practically possible as the present Original Application was of the year 2002 and therefore, they would have already retired from service and some of them might have received the portion of the amount. Hence, in such circumstances, it is not practically possible to extend the benefit given to 127 persons in view of G.O.Ms.No.97, P&AR (FRIV) Department, dated 05.07.2010.

8. It is also further to be noted that the Government, vide G.O.Ms.No.97, P&AR (FRIV) Department, dated 05.07.2010, amended the G.O.Ms.No.1159, P&AR Department, dated 21.11.1984, clarifying that the conditions imposed in G.O.Ms.No.843, P&AR (FRII) Department, dated 05.09.1983, be inserted as paragraph 4, besides maintaining sum and substance of original clause of G.O.Ms.No.843, P&AR (FRII) Department, dated 05.09.1983. Therefore, the prayer of the petitioner's association to grant advance increments in view of G.O.Ms.No.97, P&AR (FRIV) Department, dated 05.07.2010, cannot be entertained. Thus, on this score also, the writ petition is not maintainable.

9. In fine, for the reasons stated above, the writ petition fails and the same is dismissed. No Costs.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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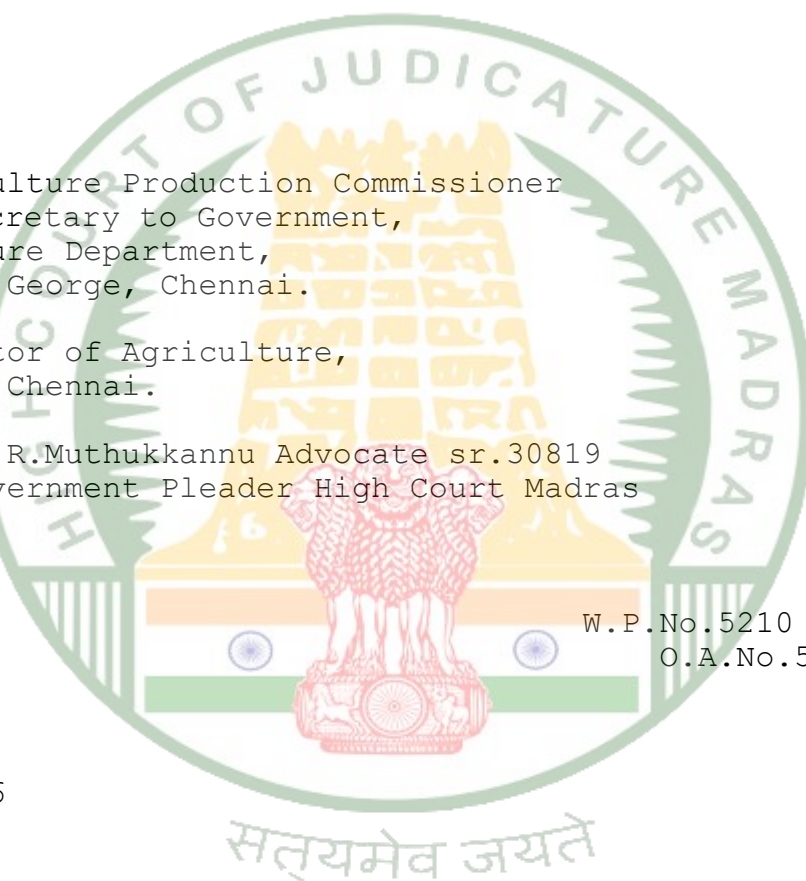
1.The Agriculture Production Commissioner
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2.The Director of Agriculture,
Chepauk, Chennai.

+1 cc to Mr.R.Muthukkannu Advocate sr.30819
+1 cc to Government Pleader High Court Madras
sr.30913

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