

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.05.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN

W.P.No.17896 of 2016

and

WMP.No.15593 of 2016

Engineering Graduates Association,
Tamilnadu Agricultural Engineering Department,
Rep. by its General Secretary,
487, Anna Salai, Nandanam, Chennai-35.Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Agriculture Department, Chennai-9.

2.The Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai, Nandanam,
Chennai - 35. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to implement the judgment of this Court dated 05.03.2015 passed in W.P.No.23996 of 2007 within a time frame as may fixed by this Court and also before approving any panel for promotion to the category of Assistant Executive Engineer in Tamilnadu Agricultural Engineering Department.

For Petitioner :Mr.N.Subramaniyan

For Respondents:Ms.P.Kavitha
Government Advocate

O R D E R

The writ petitioner namely Engineering Graduates Association, Tamilnadu Agricultural Engineering Department has filed the present writ petition seeking direction for issuance of writ of Mandamus directing the respondents to implement the judgment of this Court dated 05.03.2015 passed in W.P.No.23996 of 2007 within a time frame as may fixed by this Court and also before approving any panel for promotion to the category of Assistant Executive Engineer in Tamilnadu Agricultural Engineering Department.

2.Heard Mr.N.Subramaniyan, learned counsel appearing for the petitioner and Ms.P.Kavitha, learned Government Advocate appearing for the respondents.

3.The case of the petitioner is that the petitioner is a General Secretary of the Petitioner Association by namely Engineering Graduates Association, Tamilnadu Agricultural Engineering Department, situated at No.487, Anna Salai, Nandanam, Chennai-35 and his association was recognized in G.O.Ms.No.272 Personnel and Administrative Department dated 08.05.1989. The Assistant Engineers, Assistant Executive Engineers, Executive Engineers, Superintending Engineers and Chief Engineers was working in the Tamilnadu Agricultural Engineering Department are the members of the petitioner Association, but the writ petition is filed in respect of Assistant Engineers only.

4.The case of the petitioner further stated that four members of the petitioner Association filed a writ petition in W.P.No.23996 of 2007 challenging the seniority list published by the second respondent in his proceedings dated 02.05.2007 produced before this Court wherein the fixation of inter se seniority between the Assistant Engineers directly recruited and the Assistant Engineers re-designated from the Junior Engineers on acquiring B.E. Degree and the petitioner's consequently prayed this Court seeking direction to the respondents to revise the seniority list and made promotions pursuant to the same. The petitioner Association got impleaded as 19th respondent in the above writ petition.

5.On hearing the above petitioner's case, the above four members, who have filed the writ petition in W.P.No.23996 of 2007, this Court by an order dated 05.03.2015 set aside the above said proceedings dated 02.05.2007, the petitioners, who are the selected candidates of the 1984 batch by the Tamil Nadu Public Service Commission has entitled to have the seniority above the respondents 5 to 18 in the writ petition with other monetary benefits, if any and granted the prayer sought for in the above writ petition.

6. Though, the order has been passed on 05.03.2015, even after lapse of one year, the respondents failed to implement the said order dated 05.03.2015 in spite of the representation sent by the petitioner Association on 16.03.2015, 01.07.2015, 05.08.2015 and 10.03.2016, instead the alleging to attempting in violation of the order of this Court dated 05.03.2015.

7. The case of the petitioner Association is that the earlier promotional panel based on the seniority list dated 02.05.2007 quashed by this Court and the judgment needs should be redrawn following the law laid down by this Court in the above said judgment.

8. The case of the petitioner is that while redrawing the earlier panels, the illegal promoted re-designated Assistant Engineers would be reverted or if they get adjusted in the quota of Junior Engineers, then the other Junior Engineers fitted in the places that would be occupied by the re-designated Assistant Engineers shall have to be reverted warranting continuous promotion of the Assistant Engineers to set the same. Therefore, the petitioner Association seeks implementation of the above order atleast the next panel for the current year could be prepared. Further, it would be a grave injustice for the category of Assistant Engineers, if next panel is drawn without implementing the judgment of this Court dated 05.03.2015.

9. It is the case of the petitioner Association that if the judgment has been implemented by this time, none of the Junior Engineers, who entered into the service after the entry of Assistant Engineers would get promotions as Assistant Executive Engineer earlier joined Assistant Engineers thereby removing existing hostile discrimination directed to be removed in the said judgment. Therefore, the petitioner Association come forward with the above writ petition with the prayer directing the respondents to implemented the judgment dated 05.03.2015 in W.P.No.23996 of 2007 with time frame before approving any panel for promotion in Tamilnadu Agricultural Engineering Department.

10. Admittedly, this Court by an order dated 05.03.2015 in W.P.No.23996 of 2007 was quashed by this Court and there was no appeal filed against the said order dated 05.03.2015. This being the case, the respondents should have implemented the said order by drawing the next panel in the judgment dated 05.03.2015. In this regard, the petitioner Association had sent several representation cited supra, but none of the representation was considered by the respondents for the reasons based none to them. In the meantime, the Engineering Graduates Association, Tamilnadu Agricultural Engineering Department wherein already filed a writ petition in W.P.No.12805 of 2016

issue of writ of Prohibition, prohibiting the respondents from promoting any Junior Engineer as Assistant Executive Engineer earlier to the Assistant Engineers who joined the service earlier to the said Junior Engineer before implementing the judgment of this Court dated 05.03.2015 passed in W.P.No.23996 of 2007.

11.Considering the said petitioner's case, on 05.04.2016 this Court passed an order that when the observations of this Court in paragraph-21 extracted of the said order clearly spells out what is to be done by the respondents, the same deserves to be implemented in the letter and spirit. Therefore, a direction was issued by this Court, directing the respondents to scrupulously follow the above direction in letter and spirit.

12.While being so, the present petitioner's Association filed this petition before this Court in the above said prayer. When on 26.05.2016, the above writ petition has been taken up for hearing, the petitioner has been filed an order before this Court in letter No.GE3/28950/2015 dated 19.05.2016 sent by the Chief Engineer, Agricultural Department to the Agricultural Production Commissioner and Secretary to Government, Agricultural Department, Secretariat, Chennai-9 stating that since 110 Assistant Engineer posts are vacant it is increasing to place an additional charges and implementing the schemes and ground. Therefore, the Chief Engineer has requested the Government to approving the panel of Assistant Engineer fitted for promotion to the post of Assistant Engineer for the panel year 2015-2016 subject to the results of the pending cases while W.P.No.15493, 15795, 15739, 17532, 4113(MD), 8373(MD) and 27211 of 2015 and W.A.Nos.1720 and 1786 of 2015 and pending compliance in W.P.No.12805 of 2016.

13.Therefore, as per the above letter passed by the Chief Engineer, Agricultural Department dated 19.05.2016, it is made clear that to implement the order of this Court in WP.No.23996 of 2007 dated 05.03.2015, the Chief Engineer has already taken steps and made recommendations to the Government to approve the panel of Assistant Engineers fit for promotion to the post of Assistant Executive Engineer in the panel of the year 2015-2016. When the above recommendations has been made by the Chief Engineer it is the bounden duty of the Government viz., the Agricultural Production Commissioner and Secretary to Government, Agricultural Department, Secretariat, Chennai-9 to expedite the approval proceedings and pass appropriate orders within a time frame manner.

14.Accordingly, I am inclined to pass the following order:-

The Agricultural Production Commissioner and Secretary to Government, Agricultural Department, Secretariat, Chennai-9 is hereby directed to pass appropriate orders for approving the panel of Assistant Executive Engineer fit for the post of Assistant Engineer panel of the year 2015-2016, as per the letter dated 19.05.2016 as requested by the Chief Engineer, Agricultural Engineering Department, Nandanam, Chennai-35 for implementing the order of this Court in W.P.No.23996 of 2007 dated 05.03.2015 and W.P.No.12805 of 2016 dated 05.04.2016 and the same should be done within a period of four weeks from the date of receipt of a copy of this order.

15. Accordingly, the writ petition is disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CSII)

True Copy

Sub-Assistant Registrar

vs

To

1. The Government of Tamil Nadu,
Represented by its Secretary,
Agriculture Department, Chennai-9.

2. The Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai, Nandanam,
Chennai - 35.

3. The Agricultural Production Commissioner
and Secretary to Government,
Agricultural department,
Secretariat, Chennai-09
+1 cc to Government Pleader sr.28848

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aa15/06/2016