

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.40268 of 2016

M.Santhi

... Petitioner

vs.

1. The Agricultural Production Commissioner
and the Secretary to Government
Agriculture (VE. NEE.) Department,
Fort. St. George, Chennai - 600 009.

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

.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the Agricultural Production Commissioner and the Secretary to the government, the first respondent herein to consider the claim of the petitioner for promotion to the post of Assistant Director of Agriculture for the year 2007-2008 on par with his immediate Junior in the TNPSC Seniority list with all the consequential service and monetary benefits as has been done in the similar cases of (i) Mr.R.Paramasivam in G.O.(3D) No.93 Agriculture (Ve.Neel) Department dated 31.07.2012 and (ii) Mr.K.Harikrishnan in G.O.(3D) No.225 Agriculture (Ve.Neel) Department dated 23.09.2016, notwithstanding the penalty, by passing orders on the representation of the petitioner dated 28.10.2016.

For Petitioner : Mr.K.Rajkumar

For Respondents : Mr.K.Dhananjayan,
Special Government Pleader

ORDER

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

2. The petitioner has come up with the present writ petition for a Writ of Mandamus, directing the first respondent

herein to consider the claim of the petitioner for promotion to the post of Assistant Director of Agriculture for the year 2007-2008 on par with his immediate Junior in the TNPSC Seniority list with all the consequential service and monetary benefits as has been done in the similar cases of (i) Mr.R.Paramasivam in G.O.(3D) No.93 Agriculture (Ve.Neel) Department dated 31.07.2012 and (ii) Mr.K.Harikrishnan in G.O.(3D) No.225 Agriculture (Ve.Neel) Department dated 23.09.2016, notwithstanding the penalty, by passing orders on the representation of the petitioner dated 28.10.2016.

3. It is the case of the petitioner that she was appointed as Agricultural Officer in the Tamilnadu Agricultural Extension Service on 20.03.1985 through TNPSC and the seniority assigned to her by TNPSC is 280/84-85. The immediate Junior of the petitioner, is one T.Vivekanandan and the seniority assigned to him by the TNPSC is 281/84-85. He is holding the post of Assistant Director of Agriculture since 2007. But, the petitioner was not given promotion to the post of Assistant Director of Agriculture for the year 2007-2008, due to the pendency of disciplinary proceedings. As against the final order passed by the Government in the disciplinary on 30.09.2013, the petitioner had preferred an appeal to the Government on 18.12.2013 and the same is pending, for a period of 10 years.

4. The Hon'ble Supreme Court in the judgment reported in 1995(2) SCC 570 (State of Punjab - vs- Chamman Lal Goyal) held that the inordinate delay in initiating and finalising the disciplinary proceeding should not stand in the way in considering the claim of the Government Servant for promotion.

5. The persons similarly placed like the petitioner, namely, R.Paramasivam and K.Harikrishnan, have moved this Court, for grant of promotion notwithstanding the penalty on the ground of inordinate delay in initiation and completion of disciplinary proceedings. This Court in the case of Mr.K.Harikrishnan has passed an order in M.P.No.2 of 2015 in W.P.No.34376 of 2015 dated 28.10.2015 and issued direction to consider the claim of Mr.K.Harikrishnan for promotion to the post of Assistant Director of Agriculture for the year 2007-2008, not withstanding the penalty as has been done in the case of MR.R.Paramasivam.

6. The Government implemented this Court order and issued G.O.(3D) No.225 Agriculture (Ve.Neel) Department dated 23.09.2016 in favour of Mr.K.Harishnan and he was promoted as Assistant Director of Agriculture on par with his immediate junior for the year 2007-2008, by following the order given to Mr.R.Paramasivam in G.O.(3D) No.93 Agriculture (Ve.Neel) Department dated 31.07.2012.

7. Hence, the petitioner made a representation to the first respondent on 28.10.2016 for promotion to the post of Assistant Director of Agriculture as has been done in the case of similarly placed persons for the year 2007-2008. Though the respondents received the same, they have not passed any orders. Hence, the petitioner has come forward with the present writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the respondents to consider the representation of the petitioner dated 28.10.2016 seeking for promotion to the post of Assistant Director of Agriculture for the year 2007-2008 and pass appropriate orders, on merits and in accordance with law in the light of G.O.(3D) No.93 Agriculture (Ve. Neel) Department dated 31.07.2012 and G.O.(3D) No.225 Agriculture (Ve.Neel) Department dated 23.09.2016, within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the petitioner and it is for the respondents to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

7. With the above direction, this petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

सत्यमेव जयते
Sub Asst. Registrar

mrp

To

1. The Agricultural Production Commissioner
and the Secretary to Government
Agriculture (VE. NEE.) Department,
Fort. St. George, Chennai - 600 009.

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

1 cc to Mr.K. Rajkumar, Advocate, Sr. 66235
1 cc to Government Pleader, Sr. 66660

W.P.No.40268 of 2016

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