

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.41879 of 2016

S.Narendra Kumar

... Petitioner

Vs.

1.The Government of Tamil Nadu,
rep. by Agricultural Production Commissioner
and Secretary to Government,
Agriculture Department,
Secretariat, Chennai-600 009.

2.The Chief Engineer,
(Agricultural Engineering)
No.328, Anna Salai,
Nandanam, Chennai-600 035.

... Respondents

Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents to consider the claim of the petitioner for regularizations of the petitioner's service from the date of the petitioner's initial appointment (17.11.1993) in the light of G.O.Ms.No.138, Agriculture (AA.III) Dept, dated 20.03.1995 issued by the 1st respondent and to pass order thereon, within a time frame.

For Petitioner : Mr.M.Ravi

For respondents : Mr.K.Dhananjayan, Spl GP

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ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, to direct the respondents to consider the claim of the petitioner for regularization of the petitioner's service from the date of the petitioner's initial

appointment (17.11.1993) in the light of G.O.Ms.No.138, Agriculture (AA.III) Dept, dated 20.03.1995 issued by the 1st respondent and to pass order thereon, within a time frame.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner, as follows_

2-1.The petitioner was initially appointed though Employment Exchange as Engineer on daily wages basis on 17.11.1993 to work as Irrigation Community Organiser in the office of the Executive Engineer, Agricultural Engineering, Coimbatore. Though he continuously served on daily wages basis from 27.11.1993 till August, 1995, his service was not regularized, but his service was terminated. The petitioner and similarly placed employees had filed O.A.Nos.4868, 4869 & 4870 of 1994 on the file of the Tamil Nadu Administrative Tribunal for direction to the respondents to regularize their services. By order daed 21.09.1994, the Tribunal issued directions to the authorities concerned to pass appropriate orders. Thereafter, the petitioner was appointed again as NMR employee on 10.06.1997. In the meanwhile, on 20.03.1995, the Government issued G.O.Ms.No.138, Agricultural Department, implementing the order of the Tribunal dated 09.11.1993 in O.A.Nos.1652, 1653/1993 & 3633/1994, 4103 & 4104/1994, wherein it was ordered that 104 NMRS shall be given preference whenever direct recruitment is made to the post. It was further observed that orders in pursuance of direction in O.A.No.4868 to 4870 of 1994 will be issued separately. But, no order was issued.

2-2.It is further stated by the petitioner that in G.O.Ms.No.417, Agricultural Department dated 06.10.1997, the Government accorded sanction to appoint temporarily Irrigation Community Organizers, who are working as NMRS on daily wage basis under Rule 10(a)(1) of the General Rules for Tamil Nadu Sate and Subordinate Service. Pursuant to the same, the Chief Engineer (Agri Engineer) published a list of 21 persons to be appointed temporarily as Assistant Engineer under Rule 10(a)(1) of the General Rules. These 21 persons were also parties to the Original Applications filed by the petitioner and others, but the petitioner's name did not find a place in the said list of 21 persons.

2-3.Aggrrieved by the action of the Chief Enigneer (AE), the petitioner had filed O.A.No.5664/1998 on the file of the Tamil Nadu Administrative Tribunal for directions to appoint him as Assistant Engineer (Agricultural Engineering) in the light of the directions issued by the Tribunal on 21.09.1994 in O.A.No.4868 to 4870 of 1994, with all consequential service and monetary benefits. But the order dated 17.06.2002, the Tribunal issued directions to extend the benefits of G.O.Ms.No.138, Agricultural Department, dated 20.03.1995 to the petitioner

also. Against the said order, the Government had filed a writ petition in W.P.No.29436/2004 before this Court and the said writ petition was subsequently dismissed by this Court on 12.10.2004.

2-4. Thereupon, the Government issued directions vide Letter (Ms.) No.156/AA3/2005, dated 20.06.2005 to the Chief Engineer (Agri. Engg.) to extend the benefits of G.O.Ms.No.138, Agriculture Department, dated 20.03.1995 to the petitioner herein and others. Ultimately, by proceedings No.HRM.2(2) 37908/2002, dated 23.06.2005, the Chief Engineer (AE) issued orders appointing the petitioner as Assistant Engineer. The petitioner joined duty as Assistant Engineer on 30.06.2005.

2-5. According to the petitioner, he is also entitled to the benefits given under G.O.Ms.No.138. But, the Chief Engineer (AE) has passed orders treating the petitioner's case as a fresh appointment from 23.06.2005, thereby depriving him of his service benefits from 17.11.1993 to 22.06.2005. Hence, the petitioner has made a representation dated 05.08.2016 to the first respondent requesting to regularize his service from the date of his initial appointing i.e., from 17.11.1993 and to grant consequential benefits. Since the petitioner's request was not considered, he has come forward with the present writ petition.

3. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

4. Considering the facts and circumstances of the case and the submissions made on either side, this Court directs the 1st respondent to consider the representation dated 05.08.2016 given by the petitioner in the light of the G.O.Ms.No.138, Agriculture Department, dated 20.03.1995, and to pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of.

No costs.

[ssv]

-sd-

Assistant Registrar

//True copy//

Sub Assistant Registrar

To

1.The Agricultural Production Commissioner
and Secretary to Government,
Government of Tamil Nadu,
Agriculture Department,
Secretariat, Chennai-600 009.

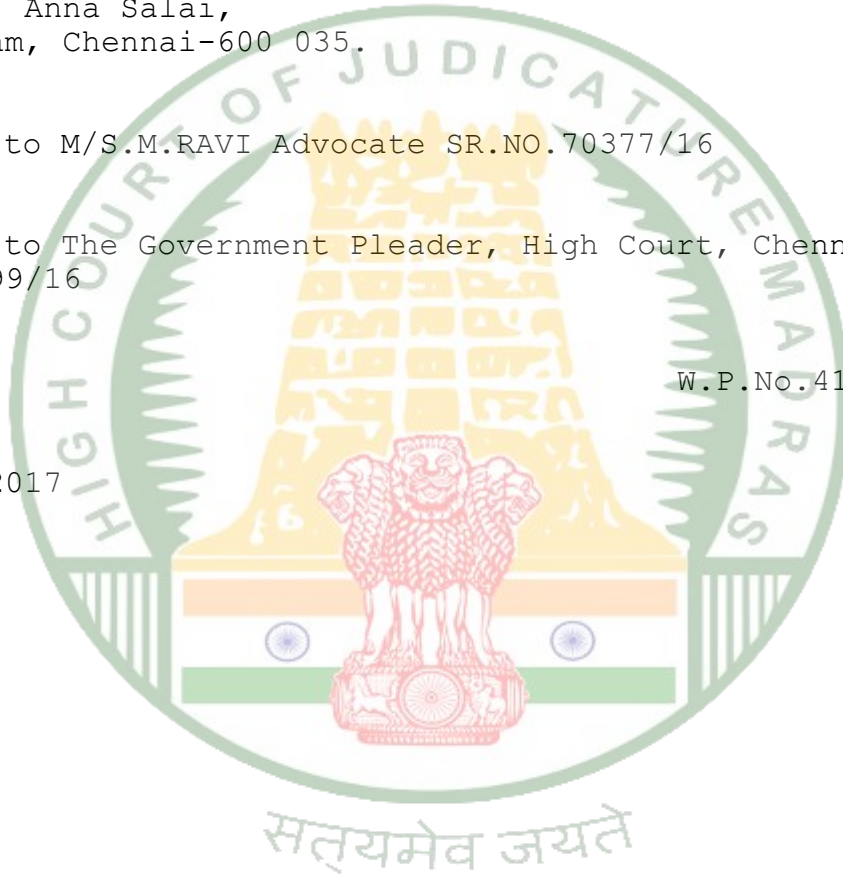
2.The Chief Engineer,
(Agricultural Engineering)
No.328, Anna Salai,
Nandanam, Chennai-600 035.

C.C. to M/S.M.RAVI Advocate SR.NO.70377/16

C.C. to The Government Pleader, High Court, Chennai-104
SR.NO.70599/16

W.P.No.41879 of 2016

AK (CO)
VS 05.01.2017



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