

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5.12.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1292 of 2017
and
C.M.P.No.17960 of 2017

1. The Secretary,
Government of Tamil Nadu
Agricultural Department,
Fort St. George, Chennai-600 009.
2. The Commissioner cum
Director of Agriculture,
Chepauk, Chennai 600 005.
3. The Joint Director of Agriculture,
Mannarpuram, Trichy.
4. The Assistant Director of Agriculture,
Iruppuvaladi, Lalgudi,
Trichy District-621 218. ..Appellants/Respondent

Versus

P.Govindasamy ..Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 26.10.2016 passed in W.P.No.29881 of 2014. Writ Petition filed U/A.226 of the constitution of INdia for issuance of a writ of certiorarified Mandamus, calling for the records on the file of the 3rd respondent in connection with Office Memo No. A5/11734/2010 dated 23.07.14 and on the file of the 2nd respondent in connection with letter No. A.U.Pa 2/43804/06 dated 04.08.2014 and quash the same and consequently grant all consequential monetary benefits including arrears on par with Juniors as per G.O. (P) No.85 Agri Department dated 02.03.1999

For appellant : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

For respondent : Ms.T.Aananthi

JUDGMENT

(Judgment of the court was made by RMT.TEEKAA RAMAN, J.)

Challenging the correctness of the order passed by the learned single Judge, the State has preferred this appeal.

2. The respondent has filed above writ petition seeking issuance of a writ of certiorarified mandamus calling for the records on the file of the third respondent in connection with Office Memo No.A5/11734/2010, dated 23.7.2014 and on the file of the second respondent in connection with letter No.Au Pa 2/43804/06 dated 4.8.2014 and quash the same and consequently, grant all consequential monetary benefits including arrears on par with juniors as per G.O.(P) No.85 Agricultural Department, dated 2.3.1999.

3. Initially, while disposing of the writ petition, the learned Single Judge has directed the appellants to consider the services rendered by the writ petitioner on notional basis and to issue orders awarding appropriate terminal benefits to him and subsequently, by order dated 13.4.2017, the learned Single Judge has clarified the matter to the extent that the impugned orders dated 23.7.2014 passed by the third respondent therein and the order dated 4.8.2014 passed by the second respondent therein are set aside and directed them to grant all monetary benefits to the writ petitioner, including the arrears, on par with his juniors, as per G.O.(Ms) No.85, Agriculture Department, dated 2.3.1999.

4. Assailing the said direction given by the learned Single Judge, the learned Special Government Pleader would contend that originally, the writ petitioner was appointed as Mazdoor in Agricultural Department in the Sugarcane Parasite Station, Lalgudi, Trichy District and he was recruited not through employment exchange nor against any sanctioned post unlike his juniors, whose services were regularized by the Government in G.O.Ms.No.85 Agriculture Department, dated 2.3.1999 and therefore, his services could not be regularized. He would further submit he had retired on 28.2.2013 and after his retirement, he has filed the present writ petition seeking regularization of his services from the date of regularization of his juniors He would also contend that juniors to the writ petitioner were regularized only in the year 2013 and since the writ petitioner had already retired from service, the question of regularization of his services does not arise and hence, seeks to set aside the order passed by the learned Single Judge.

5. Per contra, the learned counsel appearing for the respondent would contend that though the petitioner was recruited as mazdoor, he worked for more than 32 years and also acquired experience in procuring Live Pesticide for Sugarcane Cultivation and considering his expertise and sincerity, the fourth appellant had been repeatedly sending proposal for relaxation of Rules to regularise his services and the communication for regularization was issued only after his retirement and hence, he cannot be blamed for the delay in approaching the court. He would, further, contend that the method of recruitment of the petitioner is only an irregularity as observed by the learned Single Judge and hence, the order passed by the learned Single Judge needs no interference.

6. After hearing the rival contentions and after going through the material records placed before us and considering the fact that the writ petitioner has already retired from service and the fact that the similarly placed juniors to the writ petitioner were regularized, we are of the view that ends of justice will be met by giving notional regularization on par with his juniors with monetary benefits only and not with other service benefits. The order passed by the learned single Judge wherein a direction is given to grant notional benefit including monetary benefits and other service benefits shall stand modified to the above extent and on regularizing him on par with his juniors, he would be paid the arrears of pay, if any, after adjusting the amount already drawn by him during his service. The above exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this judgment.

7. The writ appeal stands disposed of with the above modification. No costs. The connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Secretary,
Government of Tamil Nadu
Agricultural Department,
Fort St. George, Chennai-600 009.

2. The Commissioner cum
Director of Agriculture,
Chepauk, Chennai 600 005.

3. The Joint Director of Agriculture,
Mannarpuram, Trichy.

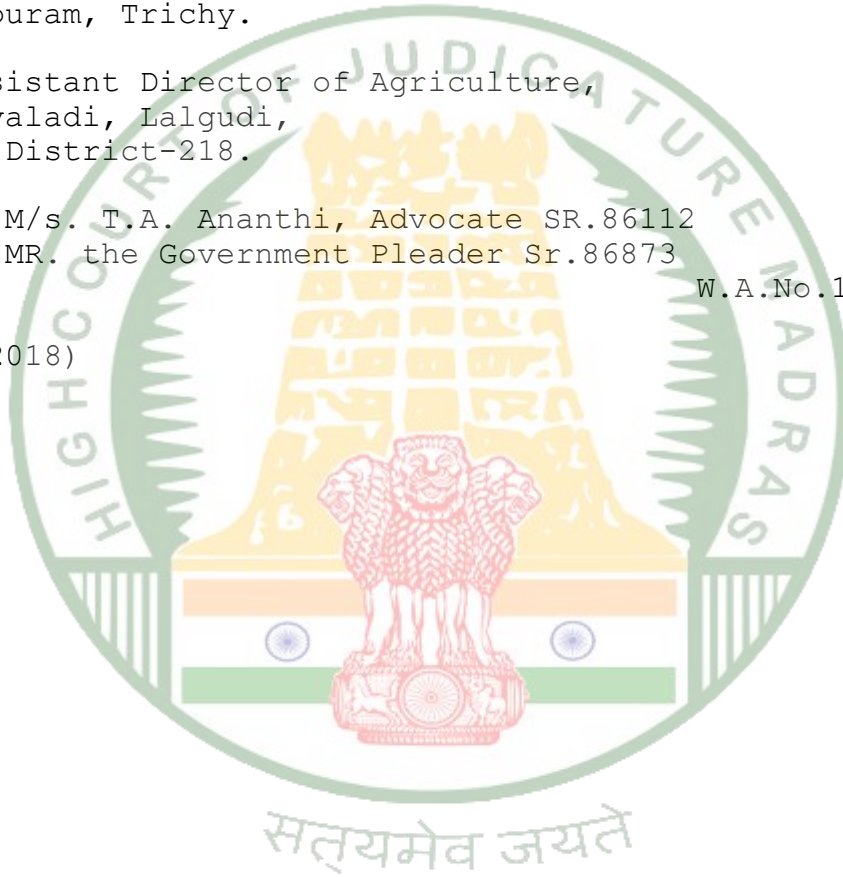
4. The Assistant Director of Agriculture,
Iruppuvaladi, Lalgudi,
Trichy District-218.

+ 1 cc to M/s. T.A. Ananthi, Advocate SR.86112

+ 1 cc to MR. the Government Pleader Sr.86873

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NMI(CO)
EU(22/01/2018)



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