



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 25.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A(MD)No.1003 of 2017

and

C.M.P(MD).No.6810 of 2017

1.The Joint Director of Agriculture,
Thoothukudi,
Thoothukudi District.

2.The Deputy Director of Horticulture,
Sivagangai,
Sivagangai District.

... Appellants /Respondents

Vs.

V.S.Ramakrishnan

... Respondent/Petitioner

Prayer : This Writ Appeal is filed under Clause 15 of Letters Patent, to allow this writ appeal by setting aside the order made in WP(MD)No.12271 of 2014 dated 05.03.2015 on the file of this Court.

Prayer in WP(MD). 12271/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus to call for the records of the impugned order Pa Ne.1/5330/13 (1) dated 26.5.2014 (received on 23.6.2014) and se.mu. Order No.Ne.1/9523/2013 dated 23.6.2014 (received on 2706/2014) issued by the 2nd and 1st respondent respectively and quash the same as illegal and consequently directs the respondents to continue all the increments as per the original fixation and pass any such further order or ordes as this Honble Court.

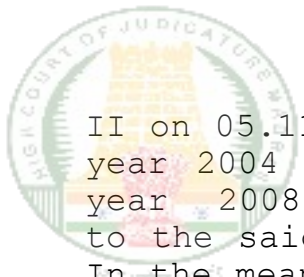
For Appellants : Mr.T.S.Md.Mohideen, AGP

For Respondent : Mr.V.Rajiv Ragav

J U D G M E N T

(Judgment of the Court was made by G.R.SWAMINATHAN, J.)

The Joint Director of Agriculture, Thoothukudi aggrieved by order dated 05.03.2015 made in WP(MD)No.12271 of 2014 has filed this intra Court appeal.



II on 05.11.1981. He was promoted as Assistant Seed Officer in the year 2004 and then promoted as Deputy Agricultural Officer in the year 2008. The writ petitioner was paid the increments attached to the said posts. He also retired from service in January 2015. In the meanwhile, orders of recovery were passed on the ground that the writ petitioner did not pass the departmental tests within a period of two years on his appointment as Deputy Agricultural Officer. The learned Judge allowed the writ petition on the ground that such recoveries could not be effected. It is against this order allowing the writ petition, the present intra Court appeal has been filed.

3. Heard the learned counsel for the appellants as well as the learned counsel for the respondent.

4. The learned Additional Government Pleader contended that increments were erroneously given to the writ petitioner and since he did not pass the required departmental tests within the stipulated period, he ought to have been reverted. The increments were paid inadvertently and therefore they were rightly ordered to be recovered.

5. We are not in a position to accept the said submission. Admittedly, the writ petitioner could not be attributed with having made any misrepresentation or furnished any incorrect information. The authorities had promoted the writ petitioner and also sanctioned the increments payable to him. It is true that the writ petitioner did not pass the departmental tests. But, at the same time, directing the recovery of the amount so paid would certainly cause hardship to the writ petitioner. It would also be iniquitous.

6. The learned Single Judge had allowed the writ petition following the decision of the Division Bench of this Court in WA.No.453 of 2007, dated 19.02.2009. It would be relevant to refer to yet another decision of the Honourable Supreme Court reported in **(2015) 4 SCC 334 (State Of Punjab & Ors vs Rafiq Masih)**. The said decision is also in favour of the writ petitioner. We find no merit in this writ appeal. It stands dismissed. Consequently, connected Miscellaneous petition is also dismissed. No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

/True Copy/

Sub Assistant Registrar

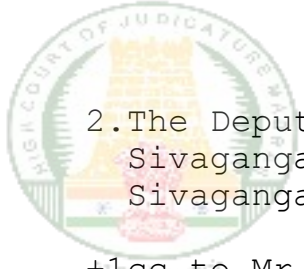
TO

1. The Joint Director of Agriculture,

Thoothukudi,

<https://hcservices.ecourts.gov.in/hcservices/>

Thoothukudi District.



2.The Deputy Director of Horticulture,
Sivagangai,
Sivagangai District.

+1cc to Mr.V.RAJIV RUFUS Advocate in SR. No.67431

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.68364

SKM/ARUL

JS/GT/SAR.2/29.08.2017/3P-5C

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