

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.3121 of 2018 & 29488 of 2017

R.Anusha .. Sole Petitioner in W.P.No.3121 of 2018

H.Mohammed Hakkeem
A.Evelin Mary
V.Saraswathi
Femin Dharmaraj
M.Jayalakshmi
M.Sumathi

.. Petitioners in W.P.No.29488 of 2017

-vs-

1. The Agriculture Production Commissioner
and Secretary to Government
Agricultural Department
Secretariat, Fort St.George
Chennai 600 009
2. The Director of Horticulture and Plantation Crops
Chepauk, Chennai 600 005
3. The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road, V.O.C.Nagar
Park Town, Chennai 600 003 .. Respondents in both the writ petitions

W.P.No.3121 of 2018 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the respondents 1, 2 & 3 relating to the impugned (i) Letter of the first respondent in Letter (D) No.165 dated 08.08.2016 addressed to the second respondent; (ii) Letter of the second respondent in letter No.GES4/16922/2014 dated 10.08.2016 addressed to the third respondent, and (iii) Notification No.29/2017 dated 28.11.2017 issued by the third respondent so far as it relates to direct recruitment for 100 vacant posts of Assistant Director of Horticulture in the Department Horticulture and Plantation Crops, quash the same and consequently forbear the respondents 1, 2 and 3 from proceeding with further regarding Direct Recruitment to the posts of Assistant Director Horticulture in

the Department of Horticulture and Plantation Crops (i) disproportionate to the ratio laid down in Rule 2 of the Special Rules for the Tamil Nadu Horticultural Service and (ii) without considering on merit the representation dated 29.08.2016 given by our Association viz., Tamil Nadu Horticulture Officers Welfare Association regarding amendment to the Special Rules for the Tamil Nadu Horticultural Service that relates to prescription of qualification for direct recruitment to the post of Assistant Director Horticulture.

W.P.No.29488 of 2017 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the respondents 1, 2 & 3 relating to the impugned (i) Letter of the first respondent in Letter (D) No.165 dated 08.08.2016 addressed to the second respondent; (ii) Letter of the second respondent in letter No.GES4/16922/2014 dated 10.08.2016 addressed to the third respondent, and (iii) Annual Planner-2017 of the third respondent so far as it relates to direct recruitment for 100 vacant posts of Assistant Director of Horticulture in the Department Horticulture and Plantation Crops, quash the same and consequently forbear the respondents 1, 2 and 3 from proceeding with further regarding Direct Recruitment to the posts of Assistant Director Horticulture in the Department of Horticulture and Plantation Crops (i) disproportionate to the ratio laid down in Rule 2 of the Special Rules for the Tamil Nadu Horticultural Service and (ii) without considering on merit the representation dated 29.08.2016 given by our Association viz., Tamil Nadu Horticulture Officers Welfare Association regarding amendment to the existing governing service Service Rules that relates to prescription of qualification for direct recruitment to the post of Assistant Director Horticulture.

For Petitioner(s) :: Mr.R.Viduthalai
Senior Counsel for
Mr.K.Muthuramalingam
in W.P.No.3121/18
Mr.S.Rajendiran in W.P.No.29488/17

For Respondents :: Mr.P.H.Aravind Pandian
Additional Advocate General
assisted by Mr.R.Prathap Singh
Government Advocate for R1 & 2
Mr.M.Loganathan
Standing Counsel for R3

ORDER

Assailing the impugned notification No.29 of 2017 dated 28.11.2017 issued by the Tamil Nadu Public Service Commission, the third respondent herein inviting applications directly from

the eligible candidates for the 100 vacancies in the post of Assistant Director of Horticulture in the Department of Horticulture and Plantation Crops and two other letters dated 8.8.2016 issued by the Agricultural Production Commissioner and Secretary to Government, the first respondent herein in Letter (D) No.165 addressing to the Director of Horticulture and Plantation Crops, Chennai, the second respondent herein and another letter issued by the Director of Horticulture and Plantation Crops in No.GES4/16922/2014 dated 10.8.2016 addressing to the Secretary of Tamil Nadu Public Service Commission, the third respondent herein, these two writ petitions have been filed.

2. Mr.R.Viduthalai, learned senior counsel for the petitioner(s) submitted that when the appointments to the post of Assistant Director of Horticulture are to be made on the basis of the Special Rules for the Tamil Nadu Horticultural Service issued in G.O.(Ms)No.271, Agriculture (AAI) Department dated 27.11.2015, which clearly prescribes the following method of appointment, namely,

"(i) by direct recruitment; or
(ii) by promotion from among the holders of the post of Horticultural Officer:

Provided that appointment to the substantive vacancies shall be made by direct recruitment and by promotion in the ratio of 1:3 and shall be filled up in the following order of rotation, namely:-

- (i) Direct Recruitment
- (ii) Promotion
- (iii) Promotion
- (iv) Promotion,"

the respondents 1 & 2, oblivious to the said mandate, without following the ratio of 1:3, have directed the Tamil Nadu Public Service Commission to proceed with the issuance of the impugned notification. The petitioner(s), who are serving as Horticultural Officers, have also given a detailed representation through the Association to the respondents herein enlightening the legal position that as per the Special Rules for the Tamil Nadu Horticultural Service issued in G.O.(Ms) No.271, Agriculture (AAI) Department dated 27.11.2015, the ratio among the direct recruits and the promotees at 1:3 should be followed. If the said rule is properly followed, only 54 vacancies alone could be subjected to direct recruitment. While so, the impugned notification has proceeded to fill up 100 vacancies, causing hardship to the Horticultural Officers seeking promotion. The said representation also has not been properly considered. Therefore, the impugned proceedings challenged in these writ petitions should be quashed. Adding further, it is stated that when the total estimated vacancies

for the year 2015-16 is about 216, out of which 100 posts have been earmarked for direct recruitment and 116 posts have been earmarked for promotional appointments, the impugned notification cannot be allowed to proceed legally.

3. It is at this stage, Mr.P.H.Aravind Pandian, learned Additional Advocate General for the respondents 1 & 2, conceding to the grievance placed before this Court by the learned senior counsel for the petitioner(s), fairly submitted that the impugned notification and the preceding letters issued by the respondents 1 & 2 are not in fine tune with the Special Rules for the Tamil Nadu Horticultural Service. Therefore, the impugned notification will be cancelled. However, he sought six weeks time for issuance of a fresh notification as per the provisions of the special rules.

4. The learned standing counsel for the third respondent submitted that the petitioner in Writ Petition No.3121 of 2018 has approached this Court belatedly after the issuance of notification, more particularly, when the date of written examination has been notified as follows:-

Assistant Director of Horticulture	Subject paper- Horticulture (P.G.Degree standard)	25.02.2018 FN	10.00 A.M. To 01.00 P.M.
	General Studies	24.02.2018 AN	02.30 P.M. To 4.30 P.M.

In the meanwhile, since many eligible candidates have applied and thousands of applications have been received in the office of the third respondent, that would cause great prejudice to the innocent public.

5. Replying to the said grievance, the learned Additional Advocate General for the respondents submitted that by cancelling the impugned notification, which has been issued without taking note of the provisions of the special rules, no one would be put to problem. However, as suggested by the learned standing counsel for the third respondent, he submitted that the candidates who had already applied, need not once again apply and they can simply follow the direction going to be issued in the fresh notification.

6. Since the learned Additional Advocate General for the respondents 1 & 2 has rightly conceded that the impugned notification is not in fine tune with the Special Rules for the Tamil Nadu Horticultural Service for following the ratio of 1:3 while filling up the post of Assistant Director of Horticulture, this Court, while quashing the impugned notification, grants six

weeks time to the respondents 1 & 2 to clarify this issue once again and on receipt of the instructions, the third respondent can proceed further by issuing a fresh notification in the matter. With this observation, both the writ petitions shall stand allowed. Consequently, W.M.P.Nos.3834 to 3836 of 2018, 31791 & 31792 of 2017 are closed. No costs.

Sd/-
Assistant Registrar(CS-iv)

//True Copy//

ss Sub Assistant Registrar

To

1. The Agriculture Production Commissioner
and Secretary to Government
Agricultural Department
Secretariat, Fort St.George
Chennai 600 009
2. The Director of Horticulture and Plantation Crops
Chepauk, Chennai 600 005
3. The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road, V.O.C.Nagar
Park Town, Chennai 600 003

+1cc to Mr.M.LOGANATHAN, Advocate, S.R.No. 11801
+1cc to Mr.K.MUTHURAMALINGAM, Advocate, S.R.No. 11818
+1cc to Mr.S.RAJENDIRAN, Advocate, S.R.No. 11819
+1cc to the Government Pleader, S.R.No. 12025(16.02.2018)

W.P.Nos.3121 of 2018 &
29488 of 2017

NRI (CO)
TR(15/02/2018)

WEB COPY