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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P. No.4803 of 2011

Dr.R.Selvaraj

.. Petitioner

Vs.

1.The Agricultural Production Commissioner
and Secretary to Government,
Agriculture Department,
Fort St. George,
Chennai - 9.

2.The Commissioner of Agriculture,
Chepauk, Chennai - 5.

3.The Director of Horticulture and
Plantation Crops,
Chepauk, Chennai - 5.

4.P.Thomas Durain Singh
Additional Director of Agriculture (Seeds) (Retd.),
C/o.Commissionerate of Agriculture,
Chepauk, Chennai - 5.

5.A.Somasundaram
Additional Director of Agriculture (IAMWARM),
C/o.Commissionerate of Agriculture,
Chepauk, Chennai - 5.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in connection with the impugned orders passed by him in Letter No.28254/AA1/2010-2, dated 27.01.2011 and quash the same and further direct the respondents to consider the claim of the petitioner for promotion to the post of Additional Director of Horticulture and promote him as Additional Director of Horticulture notionally and grant him all consequential service and monetary benefits.



For Petitioner : Mr.K.Venkataramani
Senior Counsel
For Mr.M.Muthappan

For Respondents : Mr.K.S.Suresh
Government Advocate for R1 to R3

No appearance for R4 & R5

O R D E R

Heard Mr.K.Venkataramani, learned Senior Counsel, representing Mr.M.Muthappan, learned counsel for the petitioner; Mr.K.S.Suresh, learned Government Advocate for the respondents and perused the materials available on record.

2. This Writ Petition has been filed challenging the order of the first respondent dated 27.01.2011, in and by which, the request of the petitioner to be promoted to the post of Additional Director of Horticulture was rejected on the ground that he was already promoted as Joint Director in the Horticulture Department and retired from service on 31.01.2010, on attaining the age of superannuation.

3. The learned Senior Counsel for the petitioner vehemently argued that in view of the condition in G.O.Ms.No.537, Agriculture Department, dated 24.12.2007 the Additional Director in Horticulture Department can be filled only from the Agricultural Department, but the case of the petitioner was not considered for appointment as Additional Director in Horticulture Department.

4. The learned Government Advocate would submit that it is the policy decision of the Government to fix qualification and mode of recruitment, which cannot be challenged by the petitioner in this Writ Petition. The learned Government Advocate would further add that originally there was no post of Additional Director of Horticulture in the Department of Horticulture and only at the time of restructure, the Government, by issuing G.O.Ms.No.537, sanctioned two posts of Additional Director of Horticulture for the Department of Agriculture by reallotting the Department from Horticulture with the following conditions:-

17 (x) Under restructure, with regard to the posts and staff deployed from the Directorate of Agriculture to the Directorate of Horticulture and Plantation Crops, any post falling vacant by way of promotion or retirement of the deployed staff in the Directorate of Horticulture & Plantation Crops, after expiry of 5 years from the date of issue of this order, the posts shall stand permanently transferred



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to the Directorate of Horticulture and Plantation Crops and shall be filled up by the Director of Horticulture and Plantation Crops by duly following the Service Rules of the Directorate of Horticulture and Plantation Crops. In order to maintain fairness and justice and to avoid friction among the staff in awarding promotion and other service benefits, after expiry of 5 years, an opportunity shall be provided to the staff deployed to the Directorate of Horticulture & Plantation Crops to exercise their option for permanent absorption in the Directorate of Horticulture & Plantation Crops. The posts in the Directorates of Seed Certification and Organic Certification and Agricultural Marketing & Agri Business shall continue to be filled up from the common cadre managed by the Director of Agriculture."

Hence, as per the G.O., the transfer from Agriculture Department alone can be considered for the promotion to the post of Additional Director of Horticulture and that G.O. was unchallenged, and hence, the prayer sought for by the petitioner cannot be maintained.

5. I have carefully considered the submissions and perused the materials available on record.

6. In the case on hand, the Government, by issuing G.O.Ms.No.537, dated 24.12.2007, restructure of Agriculture Department had taken place and the post of Additional Director in Horticulture was created. G.O. stipulates that the post of Additional Director shall be filled from the Agriculture Department after expiry of 5 years. It is to be noted that the petitioner was working in Horticulture Department as Joint Director and retired from service in the year 2010. Since G.O.Ms.No.537 was issued in the year 2007 and as per the G.O., the post of Additional Director in Horticulture Department can be filled from the Agriculture Department, the respondents rightly rejected the request of the petitioner seeking promotion to the post of Additional Director in Horticulture Department.

7. In the light of the above, I find no error in the order impugned in this Writ Petition. Accordingly, the Writ Petition fails and the same is dismissed with liberty to the petitioner to challenge the G.O. There is no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//
Sub Assistant Registrar



To

1.The Agricultural Production Commissioner
and Secretary to Government,
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Chennai - 9.

2.The Commissioner of Agriculture,
Chepauk, Chennai - 5.

3.The Director of Horticulture and
Plantation Crops,
Chepauk, Chennai - 5.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.70908

+1cc to the Government Pleader, S.R.No.71059

W.P. No.4803 of 2011

VD(CO)
GSP(28/11/2018)