

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.08.2018

Coram

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No 25842 of 2009

G.Mahendran

....Petitioner

Vs.

1. The Commissioner,
The Office of Agricultural Commission,
Chepauk, Chennai - 600 005.
2. The Registrar,
Tamil Nadu Agricultural University,
Coimbatore.
3. The Assistant Director of Horticulture,
The Horticultural Training Institute,
Madhavaram, Chennai - 51. Respondents

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records in LR.No. Ka.pa.ni 2/ 34916/2009 dated 28.10.2009 on the file of the 1st respondent and quash the same and direct the 1st respondent to select and appoint the petitioner on the basis of merit to the post of Assistant Agriculture Officer.

For petitioner

:Mr.G.Rajan

For Respondent-1

:Mrs. Thangavadhana
Balakrishnan(AGP)

For Respondent - 2 : Mr. Abdul Salam

For Respondent - 3 : No Appearance

O R D E R

The petitioner prays for the issuance of a writ of Certiorarified Mandamus calling for the records in LR.No. Kapani 2/34916/2009 dated 28.10.2009 on the file of the 1st respondent and quash the same and direct the 1st respondent to select and appoint the petitioner on the basis of merits to the post of Assistant Agriculture Officer.

2. The petitioner has completed his Higher Secondary School in the year 2003 and secured total marks of 878 out of 1200 and joined the course of Diploma in Horticulture in the 3rd respondent institution, which is a recognized Government institution and affiliated with the 2nd respondent Agricultural University and he had secured 78% in overall subjects.

3. The first respondent has called for interview for the post of Agriculture Officer through employment exchange for 1700 vacancies to the post of Agricultural officer. The petitioner was called for the interview for the said post on 02.01.2009 vide Lr.No.KPN1/167253/08 and the petitioner participated in the said interview and he performed well and moreover appreciated by the concerned officials. The petitioner was not selected and the first respondent has not fixed any cut off marks for the selection. Therefore, the petitioner has given a representation on 20.03.2009 and the respondents has not considered the same.

4. The petitioner would also further contend that since the first respondent has not sent any reply, he has preferred writ petition No. 4891 of 2009 and this Court, by order dated 09.10.2009 directed the first respondent to give a suitable reply to the petitioner's representation on 20.03.2009 within a period of 8 weeks from the date of receipt of a copy of this order.

5. As per the said direction, the first respondent has sent a letter dated 28.10.2009 which is impugned in this writ petition stating that for 1707 post of Assistant Agricultural Officer, interview was conducted and about 2506 candidates were considered on the basis of marks obtained from the candidates. In the interview held, selections were made and 112 posts are vacant due to the interim order passed by this Court.

6. Even though the petitioner was not selected for the said post, the first respondent has not announced regarding the cut off marks obtained by the candidates who attended the interview and on what basis the selections were made is not clear.

7. The petitioner would further contend that juniors in the college who have scored lesser percentage than the petitioner was selected, but the petitioner was not considered for the said post. Aggreived by the said rejection order passed by the first respondent, the petitioner has filed this writ petition.

8. The first respondent has filed a counter in which it could be seen that the recruitment was initiated by the Government that 1,707 vacant posts should be filled through Employment Exchange by following the service rules and the rules of reservation for such appointments and the eligible candidates were called for from the Director of Employment and Training. The Director of Employment and Training sponsored 3,691 candidates against the requirement of 1707 posts. The above said 3,691 candidates were called for interview vide 2nd respondent's memo No.FSE/1/167253/2008, dated 02.01.2009 to 04.02.2009. Accordingly, 1595 eligible candidates were called for the same posts based on the marks obtained in the Diploma in Horticulture. In the selection process 10 marks to academic qualification and 15 marks for Employment Exchange Registration and 25 marks for Oral Interview was allotted. The details of lowest marks of selected candidates communal category wise is given below:

1. OC - 36
2. BC (O) - 34
3. BC (M) - 18
4. MBC - 35
5. SC - 25
6. ST - 25

9. The learned counsel for the first respondent would submit that the petitioner belongs to B.C. Category and got only 30 out of 50 marks in the interview held in the year 2009, which is lower than the marks ie., 34 out of 50 obtained by the last candidate selected under the B.C. (O) Category. The appointment was done as per the procedures. He would further submit that since the

petitioner was not qualified for the said post, he was not selected and hence, he seeks for dismissal of this writ petition.

10. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

11. It is seen from records that the petitioner along with 2 other persons, namely R. Desingh and G.Sundaramurthy, have approached this Court by way of filing W.P.Nos.4772, 4774 & 4891 of 2009 with the the same prayer as stated in this petition and an order has been passed on 20.03.2009 and the relevant portion is extracted herein:-

"4. The prayer as sought for in the Writ Petition cannot be considered of this Court, since it is for the first respondent to pass appropriate orders in selecting the petitioners based upon their merit. However, this Court is of the opinion that after calling the petitioners for an interview and after receiving the representation of the petitioners, the first respondent being a public authority ought to have given a suitable reply to the representation made by the petitioners. Therefore this Court is of the opinion that the first respondent herein will have to be directed to consider the representation of the petitioners, dated 22.03.2009 and 20.03.2009 respectively, within a period of 8 weeks from the date of receipt of a copy of this order. The petitioners have also directed to furnish another copy of the representation sent by them along with the copy of this order."

12. In view of the above order passed by this Court, the representations of the petitioner and two others R. Desingh and G.Sundaramurthy were considered by the respondents and they were informed vide letter No.FSE2/34916/2009 dated 28.10.2009, which is impugned herein, that the selection of 1595 candidates was in accordance with the marks scored in the interview and as per communal rotation only and the petitioner and two others were not selected as they have not qualified for the said selections as per the above norms. Challenging the said letter, the petitioner has filed this Writ Petition seeking the same relief, as prayed for in the earlier Writ Petition in W.P.No.4891 of 2009, before this Court.

13. In view of observation of this Court in W.P.Nos. 4772, 4774 & 4891 of 2009 that "the prayer as sought for in the Writ Petitions cannot be considered of this Court, since it is for the first respondent to pass appropriate orders in selecting the petitioners based upon their merit" and also considering the fact that the petitioner, who belongs to BC (O) Category, has got 30 marks only out of 50 marks, which is lower than the marks scored by the last candidate selected under the BC (O) category, and the selection process was in accordance with the marks scored in the interview and as per communal rotation, this Court is of the view that this Writ Petition is not maintainable.

14. Hence, based on the above submissions and persual of the records nothing survives in this writ petition for further adjudication and the same is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To.

1. The Commissioner, The Office of Agricultural Commission,
Chepauk, Chennai - 600 005.

2. The Registrar,
Tamil Nadu Agricultural University, Coimbatore.

3. The Assistant Director of Horticulture,
The Horticultural Training Institute, Madhavaram,
Chennai - 51.

+1 CC TO GOVERNMENT PLEADER SR.NO.52910

+1cc to Mr.G.Rajan , Advocate SR.No.52207

+1cc to Mr.Anand Abdul, Advocate SR.No. 52591

W.P. No 25842 of 2009

ASK(02/01/2019)



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