

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 10-10-2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

WRIT APPEAL Nos.2252 & 2284 OF 2018

W.A.No.2252 of 2018 :

- 1.The State of Tamil Nadu,
represented by its Secretary to Government,
Agriculture Department, Secretariat,
Chennai-600 009.
- 2.The Chief Engineer (Agricultural Engineering),
487, Anna Salai, Nandanam,
Chennai-600 035.Appellants/Petitioners/
Respondents

-vs-

- 1.Mohanasundaram
- 2.R.Jayakumar
- 3.K.Chandrasekaran
- 4.N.Kaliappan
- 5.A.Mani
- 6.R.Ravichandran
- 7.N.Kumar
- 8.J.Mohanbharati
- 9.S.R.Thirugnanam
- 10.P.Natarajan
- 11.M.Thangam
- 12.B.Vadivel
- 13.A.Thangaraju
- 14.G.Selvaraj

...Respondents/Respondents
/Petitioners

W.A.No.2284 of 2018 :

Engineering Graduates Association,
rep.by its General Secretary. ...Appellant/Third party /
Third Party

- 1.Mohanasundaram
- 2.R.Jayakumar
- 3.K.Chandrasekaran
- 4.N.Kaliappan
- 5.A.Mani
- 6.R.Ravichandran
- 7.N.Kumar
- 8.J.Mohanbharati
- 9.S.R.Thirugnanam
- 10.P.Natarajan
- 11.M.Thangam
- 12.B.Vadivel
- 13.A.Thangaraju
- 14.G.Selvaraj

- 15.The State of Tamilnadu,
rep.by its Principal Secreatry to Government,
Agriculture Department, Secretariat,
Chennai-600 009.
- 16.The Chief Engineer (Agricultural Engineering)
487, Anna Salai, Nandanam,
Chennai-600 035.Respondents/Respondents
/Petitioners

Writ Appeals are filed under Clause 15 of the Letters Patent, against the order dated 19.09.2018, passed in W.M.P.No.5648 of 2018 in W.P.No.20932 of 2013, on the file of this Court.

WMP No.5648 of 2018:

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated therein and in the affidavit filed praying this Court to extend the time for six months from 28.02.2018 to 31.08.2018 to comply with the orders of this Honble Court dated 11.09.2017 made in W.P.No.20932 of 2013.

W.P.No.20932 of 2013: Petition under Article 226 of the Constitution of India, praying this Court to call for the records in the impugned Letter No. GE1/5565/2013 dt 22.2.2013 on the file of the 2nd respondent and quash the same and consequentially direct the respondents to consider the representation of the petitioners dt 21.7.2012 11.1.2013 and 20.7.2013 for the claims of the M.E. Degree Holders working as Assistant Engineers as a separate class with higher educational

qualification to hold the post of Assistant Executive Engineer in the first instance before filling up the further vacancies in the said 3:2 ratio among Degree Holders/Assistant Engineers and Diploma Holder/Junior Engineers working in the Tamilnadu Agricultural Engineering Service in the facts and records of the case.

For appellants in W.A.No.2252/2018
& respondents 15 and 16
in W.A.No.2284/2018 : Mr.P.H.Arvind Pandian,
Addl.Advocate General,
assisted by Mr.P.S.Siva Shanmuga
Sundaram,
Special Govt.Pleader.

For appellant in W.A.No.2284/2018 : Mr.AR.L.Sundaresan,
Senior Counsel,
for M/s.N.Subramaniyan.

For all respondents in W.A.No.2252/2018 &
respondents 1 to 14 in W.A.No.2284/2018 : Mr.M.Palani

COMMON JUDGMENT

(Judgment of the Court was delivered by Huluvadi G.Ramesh,J.)

Heard the learned counsel for the parties.

2. These appeals are filed, challenging the order, dated 19.09.2018, passed in W.M.P.No.5648 of 2018 in W.P.No.20932 of 2013, by the learned single Judge, directing the Department to comply with the order, dated 11.09.2017, passed in W.P.No.20932 of 2013.

3. A general direction was issued by the learned single in the Writ Petition to promote the writ petitioners, who are respondents herein, to the post of Assistant Executive Engineer, considering their representations.

4. In this connection, it is to be noted that the writ petitioners were only Diploma holders and appointed as Assistant Soil Conservation Officers, without having B.E.Degree, and, thereafter, promoted as Assistant Engineers. It is also to be stated that they obtained Postgraduate M.E.Degree during service. Further, the fact remains that there are many other persons, who are appointed as Assistant Engineers, with B.E.Degree. Earlier, for appointment of Assistant Executive Engineer by direct recruitment, a Master's Degree was a necessary qualification, and the same was not applicable to the

persons, who were Diploma holders and functioning as Soil Conservation Officers and thereafter appointed as Assistant Engineers. Without bringing the said fact to the knowledge of the learned single Judge, a blanket order was obtained by the writ petitioners and the learned single Judge also had issued a direction to the respondent authorities to appoint the writ petitioners as Assistant Executive Engineers, further making it clear that in case of failure of compliance of the said direction, appropriate proceedings under perjury would be initiated against the respondents in the writ petition.

5. What has been clarified on behalf of the Government is that there are two different cadres of Assistant Engineers viz., (i) who are promoted from the cadre of Assistant Soil Conservation Officers; and (ii) who are directly appointed with B.E.Degree qualification. The stand of the Government is also that the Assistant Engineers, who are promoted from the cadre of Assistant Soil Conservation Officers, shall also be considered for promotion to the post Assistant Executive Engineer, if they stand in the order of seniority. But, the very stand of the learned single Judge was to promote the writ petitioners, having acquired M.E. Degree during the course of employment, as Assistant Executive Engineers, by direct recruitment. It is important to mention here that direct recruitment for the post of Assistant Executive Engineer has been dispensed with. Now, there are only two methods of recruitment for the post of Assistant Executive Engineer viz., (i) Promotion from Assistant Engineer and (ii) Recruitment by transfer from Junior Engineer (Assistant Engineer). Further, the Assistant Engineers, who are appointed directly with B.E.Degree qualification, are also to be considered for promotion to the post of Assistant Executive Engineer. It is also brought to the notice of this Court that some persons, who are directly recruited to the post of Assistant Engineers, are senior to the writ petitioners. The said fact also had not been brought to the knowledge of the learned single Judge. It appears, there is a misunderstanding of the factual position by the learned single Judge.

6. In such circumstances, the order of the learned single Judge, dated 11.09.2017, could not be implemented. However, we are of the view, that while fixing the inter se seniority to the post of Assistant Executive Engineer, the cases of persons, who were initially appointed as Assistant Soil Conservation Officers and subsequently promoted as Assistant Engineers provided they acquired B.E.or M.E.Degree, shall also be considered by the Department in accordance with law.

7. Writ Appeals are disposed of accordingly. No costs. Consequently, the connected C.M.P.Nos.17965 and 18248 of 2018 are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

dixit
To

- 1.Principal Secreatry to Government,
State of Tamilnadu,
Agriculture Department, Secretariat,
Chennai-600 009.
- 2.The Chief Engineer (Agricultural Engineering)
487, Anna Salai, Nandanam,
Chennai-600 035.

+1cc to Mr.N.Subramaniyan, Advocate sr.71279
+1cc to Mr.M.Palani, Advocate sr.70190
+1cc to the Government Pleader sr.71493

W.A.Nos.2252 & 2284 OF 2018

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srg 27/11/2018

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