

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 30.07.2018****CORAM :****THE HONOURABLE MR.JUSTICE R.SURESH KUMAR****W.P(MD)No.16809 of 2018**

- 1.S.Jeyapandi
- 2.S.Senthilkumar
- 3.K.Panchacharam
- 4.N.Selvam
- 5.N.Nagarajan
- 6.N.Abdul Wahab
- 7.T.Baskar

... Petitioners

Vs.

1. The Agricultural Production Commissioner
and Secretary to Government,
Agriculture Department, Secretariat,
Chennai - 600 009.

2. The Chief Engineer,
Agricultural Engineering,
487, Anna Salai, Nandanam,
Chennai - 600 035.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent i.e., the Chief Engineer (AED), Chennai to fill up the 51 posts of Junior Engineers as per G.O.Ms.No.309, Agriculture (AA3) Department, dated 19.10.2016 and as per his கடிதம் எண் மேப5/11914/2016 நாள்:05.04.2017 calling for report from all the Executive Engineers within a specified time that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam
For Respondents : Mrs.S.Srimathy, Spl.G.P.

ORDER

The prayer sought for in this writ petition is for a Writ of Mandamus, directing the second respondent i.e., the Chief Engineer (AED), Chennai to fill up the 51 posts of Junior Engineers as per G.O.Ms.No.309, Agriculture (AA3) Department, dated 19.10.2016 and as per his கடிதம் எண்.மேப5/11914/2016 நாள்:05.04.2017 calling for report from all the Executive Engineers within a specified time that may be fixed by this Court.

2.Heard Mr.S.Visvalingam, learned counsel appearing for the petitioners and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents.

3.The learned counsel appearing for the petitioners would submit that all these petitioners are serving in the Agricultural Engineering Department in various cadre like Assistant Soil Conservation Officer, Agricultural Engineering Foreman, Inspector of



Hand boring Set Grade-1, Air Compressor Driver, Draughting Officer at various places. Their next avenue of promotion is Junior Engineer. As per the report dated 31.10.2016 sent by the second respondent, there are 51 number of posts of Junior Engineer vacant and qualified persons are also available.

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4. In G.O.Ms.No.309, Agriculture (AA3) Department dated 19.10.2016, instructions also had been given as to how these posts are to be filled up and what are all the feeder categories. Pursuant to the said G.O., the second respondent also called for report from all Executive Engineers concerned to fill up the posts of 51 Junior Engineers, whose positions are vacant. The said report was called for on 05.04.2017 and based on the said report, a list consisting of 63 persons has been prepared from various feeder categories including the petitioners and the details with regard to their service particulars. In spite of these developments, the first respondent has not taken any decision so far on the report submitted by the second respondent on 31.10.2016 and if the first respondent already acted upon, definitely, these petitioners along with all other eligible persons could have been considered and given promotion to the post of Junior Engineer as these petitioners along with others are having necessary qualification as per the rule which is in vogue to hold the post of Junior Engineer at the respondent department.

5. I have heard the learned Special Government Pleader appearing for the respondents, who would submit that, there may be some vacancies in the post of Junior Engineer at the respondent department, which, according to their report dated 31.10.2016 are 51 in numbers and in this regard, eligible candidates may be available like the petitioners. Merely because the eligible candidates are available and vacancies are there, the first respondent cannot immediately give promotion to these petitioners and it has to be considered based on the rule position and by taking into account the interse seniority, merit and other procedures to be followed for promotion from the feeder category to the post of Junior Engineer and final decision has to be taken by the Government and since the said issue is pending consideration before the Government, it will take some reasonable time to decide the issue. Therefore, the first respondent cannot be compelled to act upon within a time frame as expected by the petitioners herein.

6. I have considered the said submissions made by both sides.

7. Admittedly, there are vacancies, which are 51 in numbers, which is evidenced from the detailed report submitted by the second respondent Chief Engineer vide his report dated 31.10.2016. G.O.Ms.No.533, Agriculture (AA3) Department dated 14.12.2004 and G.O.Ms.No.309, Agriculture (AA3) Department, dated 19.10.2016 had already been issued, which are in vogue. Reports were called for by the Chief Engineer from various Executive Engineers' office by which, 63 persons were identified, who are having qualification to



be considered for the post of Junior Engineer from various feeder categories including the petitioners. In spite of these development taken place, the first respondent has not so far finalised the issue for more than a year and therefore, the petitioners, with the grievances that their candidature have not been considered so far, even though they are eligible to hold the post and vacancies are available, have approached this Court.

8. Taking into account the aforesaid facts and circumstances of the case and considering the submissions made by the learned counsel appearing for the petitioner as well as the learned Special Government Pleader, this Court is inclined to pass the following order:

"The respondents, especially, the first respondent is directed to take a final decision with regard to the promotion to the post of Junior Engineer at the respondent department by taking into account the report submitted by the second respondent Chief Engineer on 31.10.2016 vide his proceedings in Letter No.MP2/10393/2016-2 and pass orders thereon by taking a decision for the purpose of promotion to the eligible candidates including the petitioners on merits and in accordance with law and such decision shall be taken by the first respondent as expeditious as possible, at any rate, within a period of six months from the date of receipt of a copy of this order."

9. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Agricultural Production Commissioner
and Secretary to Government,
Agriculture Department, Secretariat,
Chennai - 600 009.

2. The Chief Engineer,
Agricultural Engineering,
487, Anna Salai, Nandanam,
Chennai - 600 035.

+1cc to SPL.Govt.Pleader, Sr.No.75935

+1cc to Mr.S.Visvalingam, Advocate Sr.No.75626

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