



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2018

CORAM:

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P(MD)No.1275 of 2011 and M.P(MD)Nos.1 & 2 of 2011, W.P.(MD)Nos.423 to 425 of 2011 and M.P(MD)Nos.1,1,1 & 2,2,2 of 2011, W.P.(MD) No.9130 of 2010 and M.P.(MD)No.1 of 2010, W.P(MD)No.7400 of 2010 and M.P(MD)No.1 of 2010, W.P(MD)No.7896 of 2010 and M.P(MD)No.1 of 2010, W.P(MD)No.7899 of 2010 and M.P(MD)No.1 of 2010, W.P.(MD) No.7869 to 7872 of 2010 and M.P(MD)Nos.1,1,1, 1 of 2010

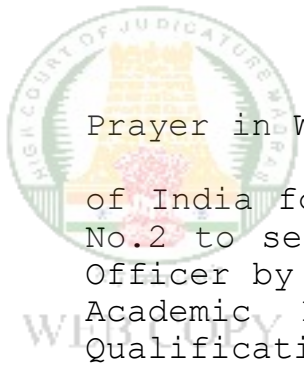
A.BALAKRISHNAN	... Petitioner in W.P(MD).1275 of 2011
S.DAVID SAHAYAM	... Petitioner in WP(MD). 423/ 2011
D.PAULRAJ BOSE	... Petitioner in WP(MD). 424/ 2011
S.RAJAMANICKAM	... Petitioner in WP(MD). 425/ 2011
A.BALAKRISHNAN	... Petitioner in WP(MD). 9130/ 2010
A.BALAKRISHNAN	... Petitioner in WP(MD). 7400/ 2010
S.DAVID SAHAYAM	... Petitioner in WP(MD). 7896/ 2010
V.BALAKRISHNAN	... Petitioner in WP(MD). 7899/ 2010
M.S.MUKILAN	... Petitioner in WP(MD). 7869/ 2010
M.VAIRAMUTHU	... Petitioner in WP(MD). 7870/ 2010
P.K.MADASAMY	... Petitioner in WP(MD). 7871/ 2010
K.VEERABADRAN	... Petitioner in WP(MD). 7872/ 2010

Vs.

1.State of Tamil Nadu,
Rep. by its Secretary,
Department of Agriculture,
Fort St. George, Chennai-09.

2.The Director of Agriculture,
O/o. Director of Agriculture,
Chennai-5.

..Respondents (in all WPs)



Prayer in W.P(MD).1275 of 2011:

Writ Petition is filed, under Article 226 of Constitution of India for issuance of Writ of Mandamus, to direct the Respondent No.2 to select the petitioner to the Post of Assistant Agriculture Officer by awarding marks for the petitioner's Employment Seniority, Academic Performance, 15 years of Experience and Additional Qualification to be part of the Viva Voce marks as in the previous recruitment year and consequently appoint the petitioner in the said post with all consequential benefits.

Prayer in WP(MD). 423/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS to call for records pertaining to the Memorandum of Call Letter in Ka.Pa.Ni.1/57900/2009 dated 31.12.2010 on the file of the Respondent No.2 and quash the same as illegal to the extent it provides for 100% percentage of selection through Interview (Oral Answers to the Questions) alone as a method of selection to the post of Assistant Agriculture Officer and consequently to direct the Respondent No.2 to intimate the allotment of marks for each category in the Interview, namely i) Oral Answers to the Questions, ii) Experience and iii) Additional Qualifications.

Prayer in WP(MD). 424/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS to call for records pertaining to the Memorandum of Call Letter in Ka.Pa.Ni.1/57900/2009 dated 31.12.2010 on the file of the Respondent No.2 and quash the same as illegal to the extent it provides for 100% percentage of selection through Interview (Oral Answers to the Questions) alone as a method of selection to the post of Assistant Agriculture Officer and consequently to direct the Respondent No.2 to intimate the allotment of marks for each category in the Interview, namely i) Oral Answers to the Questions, ii) Experience and iii) Additional Qualifications.

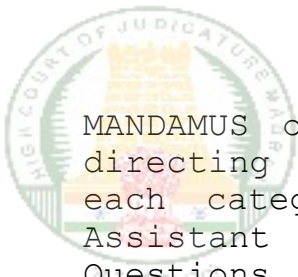
Prayer in WP(MD). 425/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS to call for records pertaining to the Memorandum of Call Letter in Ka.Pa.Ni.1/57900/2009 dated 31.12.2010 on the file of the Respondent No.2 and quash the same as illegal to the extent it provides for 100% percentage of selection through Interview (Oral Answers to the Questions) alone as a method of selection to the post of Assistant Agriculture Officer and consequently to direct the Respondent No.2 to intimate the allotment of marks for each category in the Interview, namely i) Oral Answers to the Questions, ii) Experience and iii) Additional Qualifications.

Prayer in WP(MD). 9130/ 2010 :

<https://hcservices.ecourts.gov.in/hcservices/>

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF



MANDAMUS or any other Writ or direction in the nature of Writ, directing the Respondents to intimate the allotment of marks for each category in the Interview for selection to the Post of Assistant Agriculture Officer, namely i) Oral Answers to the Questions, ii) Experience and iii) Additional Qualifications.

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Prayer in WP(MD). 7400/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS, directing the Respondents to award marks for petitioner experience and additional qualification and accordingly appoint the petitioner in the post of Assistant Agriculture Officer.

Prayer in WP(MD). 7896/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS directing the respondents to award marks for petitioners experience and additional qualification and accordingly appoint the petitioner in the post of Assistant Agriculture officer.

Prayer in WP(MD). 7899/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS directing the respondents to award marks for petitioners experience and additional qualification and accordingly appoint the petitioner in the post of Assistant Agriculture officer.

Prayer in WP(MD). 7869/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS directing the respondents to award marks for petitioners experience and additional qualification and accordingly appoint the petitioner in the post of Assistant Agriculture officer.

Prayer in WP(MD). 7870/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS directing the respondents to award marks for petitioners experience and additional qualification and accordingly appoint the petitioner in the post of Assistant Agriculture officer.

Prayer in WP(MD). 7871/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS directing the respondents to award marks for petitioners experience and additional qualification and accordingly appoint the petitioner in the post of Assistant Agriculture officer.

Prayer in WP(MD). 7872/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS directing the respondents to award marks for petitioners



experience and additional qualification and accordingly appoint the petitioner in the post of Assistant Agriculture officer.

For Petitioner : Mr.T.Lajapathi Roy (in all WPs)
For Respondents : Mr.S.Srimathy, (in all WPs)
Special Government Pleader

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ORDER

W.P(MD)No.1275 of 2011

The Prayer in the writ petition is for a Writ of Mandamus, directing the Respondent No.2 to select the petitioner to the Post of Assistant Agriculture Officer by awarding marks for the petitioner's Employment Seniority, Academic Performance, 15 years of Experience and Additional Qualification to be part of the Viva Voce marks as in the previous recruitment year and consequently appoint the petitioner in the said post.

2.This is pertaining to the recruitment undertaken by the respondents Department for the post of Assistant Agricultural Officer of the year 2010-2011.

3.The learned counsel for the petitioner would submit that as per the procedure contemplated under Rules, marks were not awarded to the petitioner by the Interview Board and the very method of only conducting an interview for the selection of the post, is also bad in law and therefore, the petitioners are entitled to get relief as they sought for herein.

4. The learned Special Government Pleader appearing for the respondents would submit that the issue is squarely covered by the decision of the Hon'ble Division Bench of this Court in W.P.(MD) No.5655 of 2009 etc., batch, dated 11.02.2010.

5.The learned Special Government Pleader to rely upon the para-23 & 24 of the said judgment, which reads thus:-

"23.From the above, we are able to see that

(a)the recruitment was only in accordance with the Rules.

(b)The Rules provide for drawing candidates only from Employment Exchange and this has been done. The Rules only provide for an oral interview and therefore non-conduct of written test cannot vitiate the selection process.

(c)The Supreme Court has held that there may be tests where the only proper method of selection may be viva voce test and therefore we cannot reject the selection purely on the ground that 50% of marks was allotted to oral interview.

(d)The Supreme Court has also held that it is for the Government to decide what kind of competitive examination would be appropriate in a given case.



(e) The selection of 1707 candidates have been made from out of a pool drawn in the ratio of 1:3 and this ratio has also been accepted by the Supreme Court, which has held that number of candidates to be called for interview cannot exceed twice or at the highest thrice the number of vacancies to be filled.

(f) The allegation of monetary consideration is vague and lacks details.

(g) The long wait of the candidates has been taken into consideration by the Government, which has given the benefit of age relaxation twice.

24. In these circumstances, we are unable to see any apparent mala fide or illegality in the selection process for us to quash it entirely, when more than 1000 persons have already been appointed and taken charge. The writ petition fails and the same is dismissed. No costs. Connected M.P. is also dismissed.

W.P(MD) Nos. 707, 1790, 1920, 2368 and 2983 of 2009 and 11449 of 2008 and 17218 of 2009.

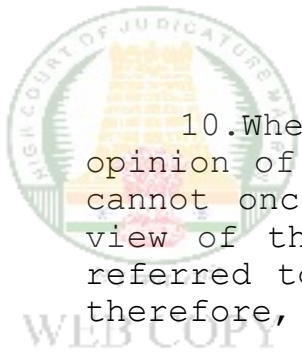
In view of the above order in W.P(MD) No. 5655 of 2009, these writ petitions are also dismissed. No order as to costs. Connected M.Ps. are also dismissed.

6. By relying upon the judgment, the learned Special Government Pleader would submit that this judgment of the Division Bench is pertaining to the previous recruitment undertaken by the same Department in respect of the same post, where also the very same writ petitioner A. Balakrishnan in this writ petition filed W.P.(MD) No. 1920 of 2009. After considering all the points raised on behalf of the petitioner, the Division Bench has ultimately concluded in paragraph 23 of the judgment cited supra.

7. Therefore, the learned Special Government Pleader appearing for the respondents would submit that since the issue is squarely covered by the said judgment, the same cannot be once again agitated before this Court.

8. I have heard the learned counsel appearing for the petitioners and the learned Special Government Pleader appearing for the respondents.

9. As has been rightly pointed out by the learned Special Government Pleader the very same recruitment of the previous year for the same post conducted by the very same Department where the petitioner is also one of the party. Since the same has been discussed in detail and findings have been given by the Division Bench, where the method of recruitment by way of conducting the interview from the candidates sponsored by the Employment Exchange and awarding 50% of marks for interview etc., were considered and declared to be valid.



10. When that being the position, the very same issue, in the opinion of this Court, since has been raised in this writ petition, cannot once again be re-agitated before this Court. More over, in view of the judicial discipline, the said Division Bench Judgment referred to above on the same subject is binding on this Court and therefore, this Court has to follow the said judgment.

11. In view of the above, all these writ petitions are liable to be dismissed. Accordingly, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Department of Agriculture,
Fort St. George, Chennai-09.

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

+3cc to M/S.T.Lajapathi Roy, Advocate SR.No. 61387

+1cc to Special Government Pleader, SR.No. 61389, 61391 to 61396

W.P(MD)No.1275 of 2011 and M.P(MD)Nos.1 & 2 of 2011,
W.P. (MD)Nos.423 to 425 of 2011 and M.P(MD)
Nos.1,1,1 &
2,2,2 of 2011, W.P. (MD)No.9130 of 2010 and
M.P. (MD)No.1 of 2010, W.P(MD)No.7400 of 2010 and
M.P(MD)No.1 of 2010, W.P(MD)No.7896 of 2010
and M.P(MD)No.1 of 2010, W.P(MD)No.7899 of 2010 and
M.P(MD)No.1 of 2010, W.P. (MD)No.7869 to 7872 of
2010 and M.P(MD)Nos.1,1,1, 1 of 2010

13.04.2018

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JM/SV MMS/SAR 4/10.05.2018/6P/7C