

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.11.2019

Coram

The Honourable Mr. Justice D. KRISHNAKUMAR

W.P.No.5842 of 2013

S.Vincent Raj

...Petitioner

Versus

The Chief Engineer (Agricultural Engineering)
Nandanam, Chennai - 600 035.

...Respondent

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 relating to the impugned order of the respondent in Se.Mu.No.Me.Pa.2/53050/2012 dated 18.02.2013 and quash the same in so far as the petitioner is concerned and direct the respondent to retain the petitioner in the post of Junior Engineer (Agricultural Engineering) and grant him all consequential benefits.

For Petitioner : Mr.P.Manoj Kumar

For Respondent : Ms.K.Bhuvaneswari,
Additional Government Pleader

ORDER

With the consent of both sides, this Writ Petition is taken up for final disposal.

2. The relief sought for in the present writ petition is to call for the records relating to the impugned order of the respondent in Se.Mu.No.Me.Pa.2/53050/2012 dated 18.02.2013 and quash the same in so far as the petitioner is concerned and direct the respondent to retain the petitioner in the post of Junior Engineer (Agricultural Engineering) and grant him all consequential benefits.

3. It is the case that the petitioner was working as Junior Engineer in the Office of the Assistant Executive Engineer (Agricultural Engineering), Kancheepuram. He was initially appointed as Assistant Soil Conservation Officer on 27.10.1992 and thereafter, promoted as Junior Engineer (Agricultural Engineering) on 19.11.2007. Then, he was regularized in the post of Junior Engineer with effect from 19.11.2007 by the order issued by the Chief Engineer (Agricultural Engineering), Chennai dated 31.05.2008. As per the said order, within five years from the date of regularization of the service, the petitioner should pass the following Departmental Tests:

- (i) PWD Accounts Test for PWD Officers and subordinates-Part-I
- (ii) PWD Accounts Test for PWD Officers and subordinates-Part-II
- (iii) Agricultural Department Departmental Test for Technical Officers
- (iv) District Office Manual Test

The petitioner passed the Departmental Tests (ii), (iii) & (iv), however, he did not pass the Departmental Test (i), despite five attempts made by him.

3.1 While so, the respondent issued an order in Se.Mu.No.Me.Pa.2/53050/2012 dated 18.02.2013, reverting the petitioner from the post of Junior Engineer on the ground that he did not pass the Departmental Tests within five years from the date of joining the post of Junior Engineer. Aggrieved by the order of the respondent, the petitioner filed the present petition for the relief stated supra.

4. The learned counsel for the petitioner would contend that the respondent has not chosen to provide an opportunity to the petitioner to put forth his claim. He would further contend that in similar circumstances, where, the Government Servants who were placed in the similar post not passed the Departmental Tests within the period of 5 years and they passed the same only after the said period, however, the increment and other benefits were granted to them by the Government under the Special Rule 9(a)(ii) for the Tamil Nadu Agricultural Subordinate Service. In support of his contentions, the learned counsel produced a copy of the following Government Orders before this Court:

- (i) அரசாணை(டி)எண்,78 வேளாண்மை(வேநி3)துறை நாள்20,03,2017
- (ii) அரசாணை(நிலை)எண்,293 வேளாண்மை(வேநி3)துறை நாள்24,11,2017

He therefore prayed that the similar relief may be granted to the petitioner.

5. The learned Additional Government Pleader appearing for the respondent submitted that the respondent cannot relax the rules and pass orders by exercising the aforesaid provision. She further submitted that if the petitioner makes a representation before the respondent, on receipt of the same, the respondent will take further steps.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent.

7. As far as this case is concerned, it is seen that the petitioner has filed the present writ petition at the premature stage itself i.e., even before making a representation to the respondent, to consider his request. Though the prayer sought for by the petitioner in the present writ petition is innocuous, the same cannot be granted by this Court since it is the Government to decide that whether the petitioner is entitled to such relief under Rule 9(a)(ii) of the Tamil Nadu Agricultural Subordinate Service Rules or not and pass appropriate orders in accordance with law. However, in order to protect the right of the petitioner, this Court issues the following directions:

(i) The petitioner is directed to make a representation before the respondent within a period of two weeks from today(11.11.2019).

(ii) On receipt of the said representation, the respondent is directed to forward the same to the Secretary, Agricultural Department, Fort St.George, Chennai - 600 002 within a period of eight weeks from the date of receipt of a copy of this order.

(iii) The petitioner's representation shall be considered by the Secretary, Agricultural Department, Fort St.George, Chennai - 600 002 on the same being forwarded by the respondent and appropriate orders shall be passed on merits and in accordance with law as expeditiously as possible.

8. This Writ Petition is disposed of with the above directions. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mrr

To

The Chief Engineer (Agricultural Engineering)
Nandanam, Chennai - 600 035.

2.The Secretary, Agricultural Department,
Fort St.George, Chennai - 600 002.

+1cc to Mr.P.Rajendran , Advocate SR.No. 93857

+1 cc to Government Pleader Sr.No. 93783

W.P.No.5842 of 2013

A.SK(15/11/2019)



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