



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2019

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD) .No.2569 of 2013

N.Tholkappian

.. Petitioner

Vs.

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

.. Respondent

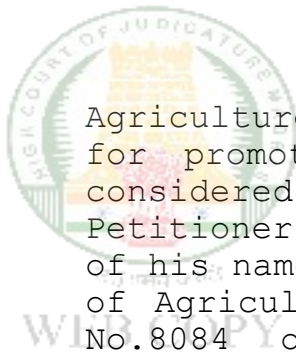
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondent relating to the impugned intimation issued in Government letter No.18354/AA1/2011-6, dated 17.01.2013 and quash the same and consequently direct the respondent to include the name of the petitioner in the approved list of Deputy Director of Agriculture of the year 2008-09 on par with his junior with all service benefits according to his feeder category seniority within a specified time frame that may be fixed by this Court.

For Petitioner	: Mr.S.Visvalingam
For Respondent	: Mr.R.Murugan
	Additional Government Pleader

ORDER

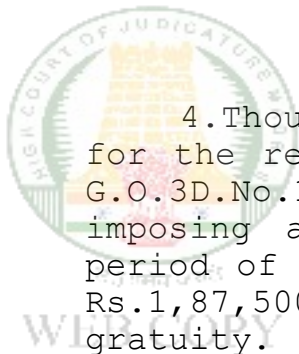
This Writ Petition is filed to quash the impugned order passed by the respondent dated 17.01.2013 and to include the name of the petitioner in the approved list of Deputy Director of Agriculture of the year 2008-2009 on par with his junior with all service benefits according to his feeder category seniority within a specific time.

2.The petitioner was recruited through Tamil Nadu Public Service Commission in the year 1978 and joined as Deputy Agricultural Officer on 04.10.1978. The petitioner was continuing in the same cadre of Agricultural Officer for about 33 years and his next promotional avenue is to the post of Assistant Director of



Agriculture. Though the petitioner was entitled to be considered for promotion, there was a charge memo and hence, he was not considered for promotion till the charge was dropped in 2007. Petitioner submitted representation dated 25.02.2009 for inclusion of his name in the approved list for promotion as Assistant Director of Agriculture. The petitioner filed a Writ Petition in W.P.(MD) No.8084 of 2011 to direct the respondent to consider the petitioner's representation for including his name in the approved panel of Assistant Director of Agriculture of the year 2005-2006. This Court gave a direction on 21.07.2011 to the respondent to consider the petitioner's representation and it is stated by the petitioner that the petitioner's name was included in the approved list of Assistant Director of Agriculture of the year 2005-2006 and he was serving as such in the post of Assistant Director of Agriculture. In the affidavit, the petitioner has not given the date of his promotion to the post of Assistant Director of Agriculture.

3.Now, the petitioner's grievance is that his name was not included in the approved list of Deputy Director of Agriculture of the year 2008-2009 on par with his juniors. Even though the charge itself was dropped by the Government on 23.11.2007 and there was no charge memo thereafter before the preparation of the panel, it is contended by the petitioner that the petitioner is entitled to be considered for promotion on par with his juniors who are now in the post of Joint Director of Agriculture. It is admitted before this Court that the approved list of Deputy Director of Agriculture of the year 2008-2009 was drawn on 15.07.2009. It is further admitted that the crucial date is 01.04.2008. It is also admitted that no charge memo was issued to the petitioner till the approved list of Deputy Director of Agriculture of the year 2008-2009 was drawn. Pursuant to the filing of Contempt Petition by the petitioner for non-implementing the order of this Court dated 21.07.2011, it appears that the impugned order has been passed by rejecting the request of the petitioner to include his name in the approved list of Deputy Director of Agriculture of the year 2008-2009 on the ground that fresh charges were framed against the petitioner under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. The petitioner's request was to include his name in the approved list of Deputy Director of Agriculture of the year 2008-2009 on par with his juniors and the crucial date is 01.04.2008. Merely because a charge memo was issued on 12.07.2012 inclusion of petitioner's name in the panel of the year 2008-2009 need not be stopped. When there was no charge memo pending on the crucial date, it is not fair on the part of the respondent to cite the subsequent charge memo as a reason not to include the petitioner's name in the promotion panel for 2008-2009. When the approved list of the Deputy Director of Agriculture of the year 2008-2009 was drawn no disciplinary proceeding or charge memo pending against the petitioner. Hence, the petitioner is entitled to succeed.



4.Though the learned Additional Government Pleader appearing for the respondent produced before this Court the proceedings vide G.O.3D.No.186, Agriculture (AA.8) Department, dated 19.07.2017 imposing a punishment of reduction of Rs.500/- per month for a period of one year from his pension, and to deduct further sum of Rs.1,87,500/- from the amount payable to the petitioner towards gratuity. Pursuant to the charge framed in 2012, the petitioner is entitled to be considered for promotion by including his name in the approved list of Deputy Director of Agriculture of the year 2008-2009. Accordingly, this Writ Petition is allowed and the impugned order dated 17.01.2013 is set aside. The respondent is directed to include the name of the petitioner in the approved list of Deputy Director of Agriculture of the year 2008-2009 and consider him for promotion as per law and the service benefits and other monetary benefits shall follow in case the petitioner is promoted pursuant to inclusion of his name in the panel prepared for the year 2008-2009. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

SRM

To

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

+1 CC to M/s.S.VISVALINGAM, Advocate SR-94940.
+1 CC to SPL GP SR-95158.

ORDER MADE IN
W.P. (MD) .No.2569 of 2013
30.10.2019

CS (12.11.2019) 3P 4C