



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P[MD]No.10324 of 2015

P.Illangovan

... Petitioner

Vs.

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

2.The Commissioner,
Agricultural Marketing and Agro Business,
CIPET Road,
Thiru.Vi.Ka.Industrial Estate,
Chennai.

3.The Secretary,
Agricultural Marketing Committee,
No.199, Madurai Road,
Palakkarai,
Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the first respondent in his letter No.5337/Vea.Vi.1/2011-17 dated 08.01.2015 and quash the same as illegal and consequently direct the first respondent to implement the G.O.Ms.No.1 Public Works Department dated 02.01.1990 as implemented for similarly placed persons by other departments and to provide all service and consequential benefits to the petitioner.

For Petitioner : Mr.L.George Paul Anto
For Respondents : Mr.D.Muruganantham
Additional Government Pleader

O R D E R

The order of rejection dated 08.01.2015, rejecting the claim of the writ petitioner for grant of notional promotion to the post of Assistant Engineer, is under challenge in the present Writ Petition.

2.The very claim of the writ petitioner is to redesignate the post of Engineering Supervisor as Assistant Engineer.



3. This Court is of the considered opinion that re-designation is the administrative policy to be taken by the competent authorities. Re-designation, creation of posts, abolition of posts or creating avenues for promotion are the administrative prerogative of the State Government or Undertakings. However, an employee working under the category of Engineering Supervisor cannot claim re-designation as a matter of right. There are many posts in Government Departments, Cooperatives and Government Undertakings, wherein no promotional avenues are available. In order to compensate the non-availability of promotional post in particular department, the Pay Commission recommended the implementation of the scheme of Selection Grade and Special Grade.

4. Accordingly, now the Government is granting Selection Grade and Special Grade when an employee is not having an opportunity of promotion, on account of non-availability of posts or creation of post or otherwise. Thus, the selection grade pay was equivalent to the next higher scale applicable to the next cadre and Special Grade are also granted enhancing the pay scales to that of the promotional post. This being the monetary benefit granted, this Court is of the considered opinion that re-designation cannot be claimed by way of right of an employee. In the present case, the writ petitioner had received the Selection Grade Scale of Pay.

5. Learned Additional Government Pleader with reference to G.O.Ms.No.1, Public Works Department dated 02.01.1990, contended that no post of Assistant Engineer is available in the third respondent agricultural marketing committee. In view of the fact that there is no availability of the post of Assistant Engineer, question of considering the case of the writ petitioner for grant of notional promotion to the post does not arise at all. Under these circumstances, the benefit of Selection Grade which was given already to the writ petitioner is the correct procedure followed by the authorities and in the absence of any such post of Assistant Engineer, the writ petitioner cannot claim notional promotion to the post of Assistant Engineer. This being the facts and circumstances, the writ petitioner has not established any acceptable reasons for the purpose of granting the relief sought for in the present Writ Petition.

6. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



To

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+1 CC to M/s.L.GEORGE PAUL ANTO, Advocate SR-73840.
+1 CC to SPL GP SR-73764.

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