

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.NO.1176 of 2020

and

WMP Nos. 1439, 1442 & 1443 of 2020

1. M. Sundaresan
Senior Inspector
O/o. The Deputy Registrar (Diarying)
Salem.
2. M. Selvakumar
Senior Inspector
O/o. The Deputy Registrar (Diarying)
Trichy.
3. A. Muralikannan
Senior Inspector
O/o. The Commissioner for Milk Production and
Dairy Development, Chennai 600 051.
4. C. Thiagarajan
Senior Inspector
O/o. The Deputy Registrar (Diarying)
Coimbatore.
5. M. Ramar
Senior Inspector
O/o. The Deputy Registrar (Diarying), Virudhunagar.
6. K. Paramasivam
Senior Inspector
O/o. The Deputy Registrar (Diarying)
Manamadurai.
7. A. Senthil Kumar
Junior Inspector
O/o. The Deputy Registrar (Diarying)
Madurai.

8. T. Somu
Senior Inspector
O/o. The Deputy Registrar (Diarying)
Tiruvallur.

9. A. Venkatesan
Junior Inspector
O/o. The Commissioner for Milk Production and
Dairy Development
Chennai 600 051.

... Petitioners

-Vs-

1. The Secretary Government
Animal Husbandry,
Dairing and Fisheries Department
Fort. St. George, Chennai 600 009.

2. The Commissioner for Milk Production
and Dairy Development
Madhavaram Milk Colony
Chennai 600 051

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus or any other appropriate writ, order or direction in the nature of writ, tocall for the records relating to the impugned letter dated 06.01.2020 made in Na.Ka.No.1/A1/2020 passed by the second respondent, quash the same and consequentially directing the secondrespondent to fix interse seniority between the promotee Senior Inspectors (petitioners) and direct recruitment Senior Inspectors by considering the petitioners' representation dated 19.12.2019.

For Petitioners: Mr. R.Sethu Pandian
For Respondents: Mr. L.P. Shanmuga Sundaram,
Special Government Pleader.

ORDER

Mr. L.P.Shanmuga Sundaram, Special Government Pleader, takes notice for the respondents. Since the issue involved falls in a very narrow compass, the Writ Petition itself is being taken up for final hearing on consent given by the counsel appearing on either side.

2. This Writ Petition has been filed challenging the impugned letter of the second respondent dated 06.01.2020 and for a consequential direction to the second respondent to fix

the interse seniority between the promotee Senior Inspectors and the direct recruitment Senior Inspectors and thereafter consider the promotion to the post of Co-operative Sub Registrar.

3. The petitioners are all working as Senior Inspectors in the Co-operative Society and they have reached this post by virtue of promotion. The further claim made by the petitioners is that they are entitled to be considered for promotion to the post of Co-operative Sub Registrars. The grievance expressed by the petitioners is that, there are two avenues open to be considered for promotion to the post of Co-operative Sub Registrars. The first avenue is those coming through the promotion mode and the second avenue is those who had been directly recruited to the post of Senior Inspectors. According to the petitioners, without fixing interse seniority between these two groups of aspirants, the respondents should not go forward to consider the promotion to the post of Co-operative Sub Registrars. The petitioners have also made representation in this regard to the respondents on 19.12.2019. The further grievance of the petitioners is that in spite of receipt of the representation, the second respondent has proceeded to issue the impugned letter calling for details in order to publish the list of eligible candidates to be considered for promotion to the post of Co-operative Sub Registrars.

4. The learned counsel for the petitioners submitted that if the representation made by the petitioners is not considered, the persons who were directly recruited as Senior Inspectors will be placed higher than the petitioners in the seniority list and the petitioners will lose their chance from being considered for promotion to the post of Co-operative Sub Registrars. The learned counsel further submitted that all the petitioners are more than 50 years of age and if they miss the chance, they will never get into the post of Co-operative Sub Registrar during their service period. Therefore, the learned counsel submitted that the respondents may be directed to consider the representation and fix the interse seniority and thereafter to consider the candidates for promotion to the post of Co-operative Sub Registrars.

5. Mr. L.P. Shanmuga Sundaram, the learned Special Government Pleader appearing on behalf of the respondents submitted that there is absolutely no ground to interfere with the impugned letter issued by the second respondent on 06.01.2020. The learned counsel submitted that the second respondent has merely called for particulars from all the Societies to submit the names of persons who are eligible to be considered for promotion to the post of Co-operative Sub Registrars. The learned counsel submitted that only after the

receipt of particulars, the second respondent will proceed to publish the list of eligible candidates and if the petitioners have any grievance at that point of time, they can always express their objection and the same will be considered in accordance with law and Rules governing promotions. The learned counsel submitted that the petitioners cannot be allowed to prevent the second respondent from getting the particulars and therefore, the present Writ Petition itself is premature and the same is liable to be dismissed.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. The main grievance that has been addressed by the petitioners in this Writ Petition is that they have all reached the post of Senior Inspectors by virtue of promotion and that the direct recruits are being placed higher than the petitioners and thereby resulting in the petitioners being deprived of their chance for being considering for further promotion to the post of Co-operative Sub Registrars. The representation given by the petitioners to the second respondent on 19.12.2019 only reflects this grievance. Therefore, the petitioners want interse seniority to be fixed before going ahead with the process of promotion.

8. The second respondent has only called for particulars from various societies with regard to the eligible candidates who could be considered for promotion to the post of Co-operative Sub Registrars. Only after the receipt of particulars, the second respondent will publish the list of eligible candidates. This Court hopes that the second respondent takes into consideration the grievance expressed by the petitioners and take appropriate decision with regard to the fixing of the interse seniority at the time of publishing the list. Till the list is published, the second respondent cannot be prevented from undertaking the process of collecting the details of persons from various societies who are eligible to be considered for promotion to the post of Co-operative Sub Registrars. This Court cannot interfere with the impugned letter of the second respondent dated 06.01.2020 merely based on the apprehension of the petitioners. What the second respondent is ultimately going to do will only get reflected after the list is published. Therefore, this Court is not inclined to interfere with the impugned letter of the second respondent dated 06.01.2020 at this stage. However, it is always open to the second respondent to consider the grievance that has been expressed by the petitioners by their representation dated 19.12.2019 and take appropriate decision in accordance with the Rules governing the service, before publishing the final list.

Except giving this direction, no further orders can be passed in this Writ Petition. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are also closed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary Government
Animal Husbandry,
Dairing and Fisheries Department
Fort. St. George, Chennai 600 009.

2. The Commissioner for Milk Production
and Dairy Development
Madhavaram Milk Colony
Chennai 600 051

+1 CC to Mr.L.P. Shanmuga Sundaram, Advocate sr 5223.

+2 Ccs to Mr.R. Sethu Pandian, Advocate sr 4199

+1 CC to The Spl. Govt. Pleader sr 4887.

W.P.NO.1176 of 2020

GP(CO)
SP(30/01/2020)

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