

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2020

C O R A M

The HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.37488 of 2004 &

WPMP.No.44967 of 2004

(Through Video Conferencing)

N.Elumalai

.. Petitioner

vs

1. The State of Tamilnadu represented  
by the Secretary to Government,  
Agriculture Department,  
Fort St. George,  
Chennai-600 009.

2. The Chief Engineer,  
Agricultural Engineering Department,  
Nandanam,  
Chennai-600 035.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari and Mandamus calling for the records of the First Respondent herein relating to G.O.Ms.No.12 Agriculture (AAIII) Department dated 20.01.2000 and quash the same insofar as the fixation of ratio between the categories of posts of Assistant Drillers (Diploma) and fitter and the Proviso issued under Notification II thereof is concerned and consequently directing the respondents (i) To fix a ratio between the Assistant Driller (Diploma) and Fitters for Promotion to the post of Assistant Agricultural Engineering Foreman as 1:1, (ii) to delete the post of Mechanic from the feeder category for promotion to the above said post, and pass such further or other orders as this Court may deem fit in the circumstances of the case.

For Petitioner : No appearance

For Respondents : Mr.G.K.Muthukumar, Spl. Govt. Pleader

O R D E R

The matter was listed for hearing on 10.11.2020, when there was no appearance for the Petitioner. Consequently, it was adjourned for hearing today. At the hearing today, once again, there is no appearance for the Petitioner. Mr.G.K.Muthukumar, learned Special Government Pleader is present and he submits that the relief prayed for in this writ

petition is the re-fixation of the ratio as between the Assistant Driller (Diploma), Fitter and Mechanic for the post of Assistant Agricultural Engineering Foreman by deleting the feeder category of Mechanic and consequently re-fixing the ratio as 1:1 instead of the prevailing ratio. In this connection, he submits that the settled legal position is that it is entirely up to the employer to decide on the appropriate feeder categories and the ratio as between the said feeder categories. In support of this contention, he referred to and relied upon the following judgments of the Hon'ble Supreme Court in (i) the State of Andhra Pradesh and another vs. V.Sadanandam and Others (1989 Suppl. (1) SCC 574) and P.U.Joshi vs. Accountant General [(2003) 2 SCC 632]. Consequently, he submits that the writ petition is liable to be dismissed.

2. I considered the aforesaid submissions and examined the materials available on record.

3. From the affidavit in support of the writ petition and in particular, paragraph-27 thereof, it is clear that the Petitioner had already been promoted as Assistant Agricultural Engineering Foreman on 26.08.2004, which precedes the filing of the writ petition on 14.12.2004. As such, the Petitioner did not have the locus standi to challenge the fixation of the feeder categories for the post of Assistant Agricultural Engineering Foreman and the ratio relating thereto as on the date of filing of the writ petition. In addition, as correctly contended by Mr.Muthukumar, the law on fixation of feeder categories and the ratio as between such categories as no longer res ingra. It is sufficient for the purpose of this case to extract the judgments that were referred to by the learned Special Government Pleader. In Paragraph-17 of the judgment reported in Andhra Pradesh and another vs. V.Sadanandam, 1989 Suppl. (1) SCC 574, the Hon'ble Supreme Court held as follows:

"The mode of recruitment and the category from which the recruitment to a service domain of the Executive. It is not for judicial bodies to sit in judgment over the executive decision in these matters. When the rules provide for transfer on promotion from other local categories or zones and such transfers are not assailed on the ground of arbitrariness or discrimination, the policy of transfer adopted by the Government is not subject to judicial review"

Likewise, in paragraph-10 of the judgment in P.U.Joshi vs. Accountant General reported in [(2003) 2 SCC 632], it was held as follows:

"Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service

including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service. "

4. In view of the aforesaid authoritative pronouncements of the Hon'ble Supreme Court and keeping in mind that the Petitioner did not have locus standi to challenge the feeder categories for the post of Assistant Agricultural Engineering Foreman, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst. Registrar (CS)

/True Copy//

Sub Asst. Registrar

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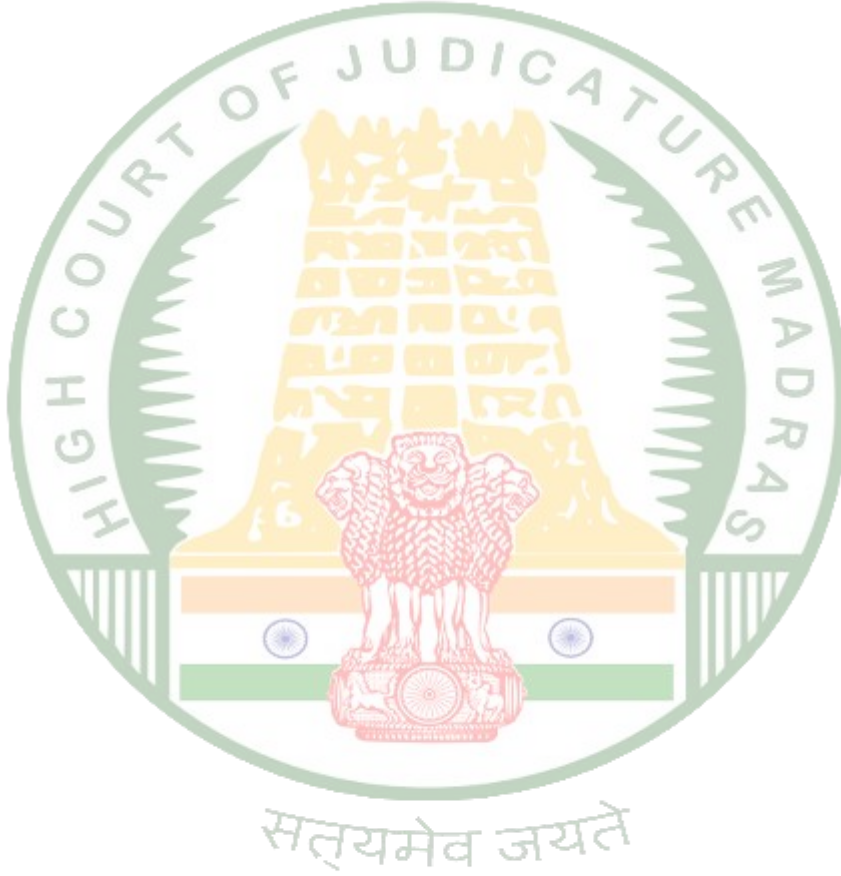
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+1 CC TO THE Government Pleader in SR.NO.37406

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RG(CO)  
VC (19/12/2020)



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