

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.09.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.25399 and 25400 of 2013

K.Rajendran ... Petitioner in W.P.25399/2013
M.Djeapradabane ... Petitioner in W.P.25400/2013

Vs.

- 1.Puduchery Agro Service and Industries Corporation Ltd (PASIC),
Rep. by Managing Director,
Agro House, Thattanchavady,
Puducherry - 605 009.
- 2.Secretary to Government (Agriculture),
Chief Secretariat, Government of Puduchery,
Puduchery. ... Respondents in both W.Ps.

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to order in File No.5/PASIC/RP/MD/11-12/03, dated 27.05.2011, passed by the 1st respondent and quash the same and direct the respondents to restore the petitioner to the post of Manager (Legal) with all consequential benefits, including payment of arrears of pay and allowances in the said post.

For Petitioners : Ms.Y.Kavitha
for M/s.Giridhar & Sai

For Respondents : Mr.S.Ashok Kumar for R1
Mr.Stalin Abimanyu for R2
Government Advocate

COMMON ORDER

These writ petitions have been filed seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to order in File No.5/PASIC/RP/MD/11-12/03, dated 27.05.2011, passed by the first respondent and to quash the same and to direct the respondents to restore the petitioner to the post of Manager (Legal) with all consequential benefits, including

payment of arrears of pay and allowances in the said post.

2.The petitioner in W.P.No.25399 of 2013 entered the service of the first respondent as Messenger on 28.09.1987 and after several promotions, was promoted as Manager (Legal) during the year, 2007 in full compliance with the substantive and procedural requirements of the Recruitment Rules.

3.The petitioner in W.P.No.25400 of 2013 entered the service of the first respondent as Depot Salesman on 22.06.1989 and after several promotions, was promoted as Manager (Legal) during the year, 2007 in full compliance with the substantive and procedural requirements of the Recruitment Rules.

4.It is the further case of the petitioners that by an order dated 27.05.2011, the first respondent stated that it was found that almost all promotions/ upgradation/ replacement scale/ redesignation etc., granted from 01.01.2006 were without any legal/ admin. sanctity when examined with reference to the delegation of powers to the officers of the Corporation and that it has been decided to review all such promotions etc., forthwith. Though no particular formal order was passed reverting the petitioners and though the petitioners continue to discharge the duties and responsibilities of Manager (Legal), the pay scale has been reduced resulting in huge financial loss to the petitioners. In this regard, the petitioners made representation to the first respondent and since there is no response have filed these writ petitions.

5.The learned counsel appearing for the petitioners would submit that Puducherry Agro Services and Industrial Corporation Limited (PASIC) is a Government of Puducherry Undertaking and since the Government suffer financial crises, the first respondent has passed the impugned order. The learned counsel would further submit that in the impugned order dated 27.05.2011, it has been stated that the various promotion/ upgradation/ replacement scale/ redesignation etc., granted from 01.01.2006 were examined with reference to the delegation of powers to the officers of the Corporation and it was found that all such promotion/ upgradation/ replacement scale/ redesignation etc., were without any legal/ administrative sanctity and thereby have to be reviewed forthwith in consonance with established administrative procedure of the Corporation and instructions issued by the Government from time to time. Further, the C & AG Audit has raised serious objections to the aforesaid pay benefits granted to the employees that all are irregular resulting in financial loss to the Corporation.

6.The learned counsel appearing for the petitioners would further submit that the petitioners were promoted to the post of Manager (Legal) vide order of the first respondent dated 07.03.2007, based on the recommendations of the Junior Departmental Promotion Committee for Group - C.

7.The learned counsel appearing for the petitioners would further submit that in the minutes of the Junior Departmental Promotion Committee it is observed that two posts of Manager (Legal) was created newly in the Board meeting held on 15.09.2006 and further concurrence of the Chairman - cum - Secretary to Government (Agri.) was given vide File dated 06.03.2007. The Recruitment Rules for the post of Manager (Legal) was apprised to the Committee. The Committee perused the performance and service records of the Officers having Degree in Law of recognized University or equivalent and after due deliberation unanimously decided to promote the petitioners. Hence, the petitioners were promoted as Manager (Legal) in full compliance with the substantive and procedural requirements of the Recruitment Rules.

8.The learned counsel appearing for the first respondent would submit that the promotion granted to the petitioners were not approved by the Lieutenant Governor and without approval from the Lieutenant Governor, the promotion granted to the petitioners is null and void.

9.The learned Government Advocate did not dispute the facts submitted by the learned counsel appearing for the petitioners.

10.Considering the submissions made on either side, this Court is of the opinion that the petitioners were promoted as Manager (Legal) in full compliance with the substantive and procedural requirements of the Recruitment Rules and hence, mere non approval of the Lieutenant Governor should not affect the promotion granted to the petitioners. Therefore, this Court is inclined to allow these writ petitions.

11.These writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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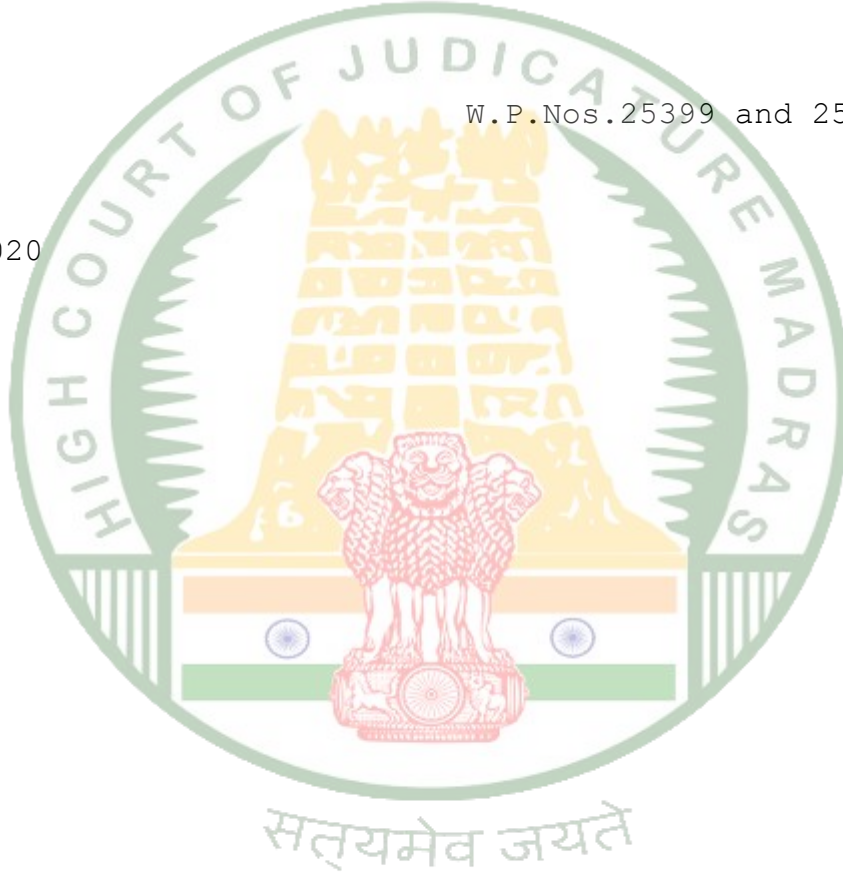
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To

1. Puduchery Agro Service and Industries Corporation Ltd (PASIC),
Rep. by Managing Director,
Agro House, Thattanchavady,
Puducherry - 605 009.
2. The Secretary to Government (Agriculture),
Chief Secretariat, Government of Puduchery,
Puduchery.

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