

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2020

CORAM

THE HON'BLE Mr. JUSTICE D.KRISHNAKUMAR

W.P.No.27917 of 2015
and M.P.No.1 of 2015

M.Chandrika

... Petitioner

Vs

1.The State of Tamil Nadu rep.by its
Agriculture Production Commissioner
and Secretary to Government,
Agriculture Department,
Secretariat, Chennai-9.

2.The Director of Agriculture,
Chepauk, Chennai 5.

3.The Deputy Director of Horticulture, (I/C)
Vellore-2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of The Constitution of India praying to issue a writ or order or direction, particularly in the nature of writ of Certiorarified Mandamus to call for the records connected in G.O.(Ms).No.51, Agriculture (Ve.Ni4(2)) Department, dated 11.03.2010 passed by the 1st respondent and letter no.Mu.Mu.A1/737/2008 dated 07.04.2015 of the 3rd respondent and quash the same in so far as the fixation of scale of pay of the petitioner as on 01.06.1988 as Rs.775/- instead of Rs.1,200/- and consequently direct the respondents to fix the pay of the petitioner as Rs.1,200/- as on 01.06.1988 as was given to the petitioner's juniors.

For Petitioner :Mr.G.Elanchezhian

For Respondents:Mr.J.Ramesh

Additional Government Pleader for R1 to

R3

O R D E R

The Writ Petitioner was working in the post of Lady Demonstrator and she was relieved from the said service and appointed in the services of Directorate of Agriculture Department and she applied for the posting order with a request to give her an alternative posting, based on the qualification and thereafter, the Government has issued an order in G.O.Ms.No.665, Agriculture Department dated 05.09.1990, wherein the Government has given instructions that the seven Lady Demonstrators mentioned in the panel above may be posted temporarily in the post of Field Demonstration Officer in the scale of pay of Rs.750-12-870-14-940 and based on the Government Order, the respondent Department has issued the appointment order dated 02.01.1991 and she was appointed in the said post and she gave several representations to regularise the services from the date of initial appointment and treat the absence period between 29.12.1987 to 02.01.1991 as a duty period as per the Fundamental Rules 9(3) and pay arrears, however, there was no reply from the respondents.

2. According to the petitioner, similarly placed persons like that of the petitioner namely Mrs.I.Margarate and Mrs.T.Kayalvizhi were filed Writ Petitions in W.P.Nos.2953/2006 and 23987 of 2007 before this Court. Pursuant to the order passed by this Court in the aforesaid Writ Petitions, insofar as Mrs.I.Margaret is concerned, the Government has passed G.O.(Ms.) No.36, Agriculture Department dated 25.02.2020, fixing the scale of pay as Rs.1,200/- and vide G.O.Ms.No.51, Agriculture Department, dated 11.03.2010, fixed the scale of pay of the writ petitioner as on 01.06.1988 as Rs.755/- and in respect of one Mrs.Kayalvizhi is concerned, revised the pay scale as Rs.1,200/- as on 01.06.1988. Similar to the other persons, the service of the writ petitioner was also regularised by the Government vide G.O.Ms.No.51, Agriculture Department dated 11.03.2010 for the period from 29.12.1987 to 01.01.1991 as duty and fixed the scale of pay as Rs.775/- instead of Rs.1,200/-, which was given to Mrs.Margaret, who is junior to the writ petitioner. Therefore, the writ petitioner sought for same benefit already granted to the aforesaid Mrs.Margaret and Mrs.Kayalvizhi by fixing the scale of pay as Rs.1,200/- as on 01.06.1988. The Government has rejected the said claim of the petitioner on the simple ground that there is no provision under the Rules to revise the scale of pay of the writ petitioner and challenging the rejection order passed by the respondent, the petitioner has filed this Writ Petition.

3. The learned counsel appearing for the petitioner would submit that all the aforesaid facts were stated in the representation, but the said fact was not duly considered by the respondents and simply rejected it by passing non speaking order

dated 07.04.2015 and hence, the said aforesaid order is liable to be rejected.

4. The learned Government Pleader appearing for the respondents would submit that the writ petitioner is not entitled for the relief as claimed by her in the representations. Therefore, the respondent has rejected his claim.

5. The counter affidavit has been filed on behalf of the respondents and the reasons stated in the counter affidavit is that she was not eligible for claiming the aforesaid amount and reiterated the stand passed in the impugned order.

6. A perusal of the materials placed before this Court would disclose that the petitioner has raised the fact that one Mrs.kayalvizhi and Mrs.I.Margaret has got the benefit of pay scale of Rs.1200 as on 01.06.1988, as per the Government order in G.O.Ms.Nos.36 and 04 of the Agriculture Department dated 25.02.2010 and 05.01.2012 respectively and the said Government Order has not been taken note of while passing the rejection order and there is no explanation to that effect in the counter affidavit for the aforesaid orders been passed by the Government in favour of the aforesaid two persons namely Mrs.kayalvizhi and Mrs.I.Margaret. In view of the fact that the respondent has not passed any reasoned order, this Court has no hesitation to quash the impugned proceedings.

7. In the result, the Writ Petition stands allowed and the impugned proceeding dated 07.04.2015 passed by the 1st respondent is quashed and this Court directs the 1st respondent to pass orders on merits and in accordance with law, on the representations submitted by the petitioner, by taking note of the Government Orders, as expeditiously as possible within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.Agriculture Production Commissioner
and Secretary to Government,
Agriculture Department,
Secretariat, Chennai-9.

2.The Director of Agriculture,
Chepauk, Chennai 5.

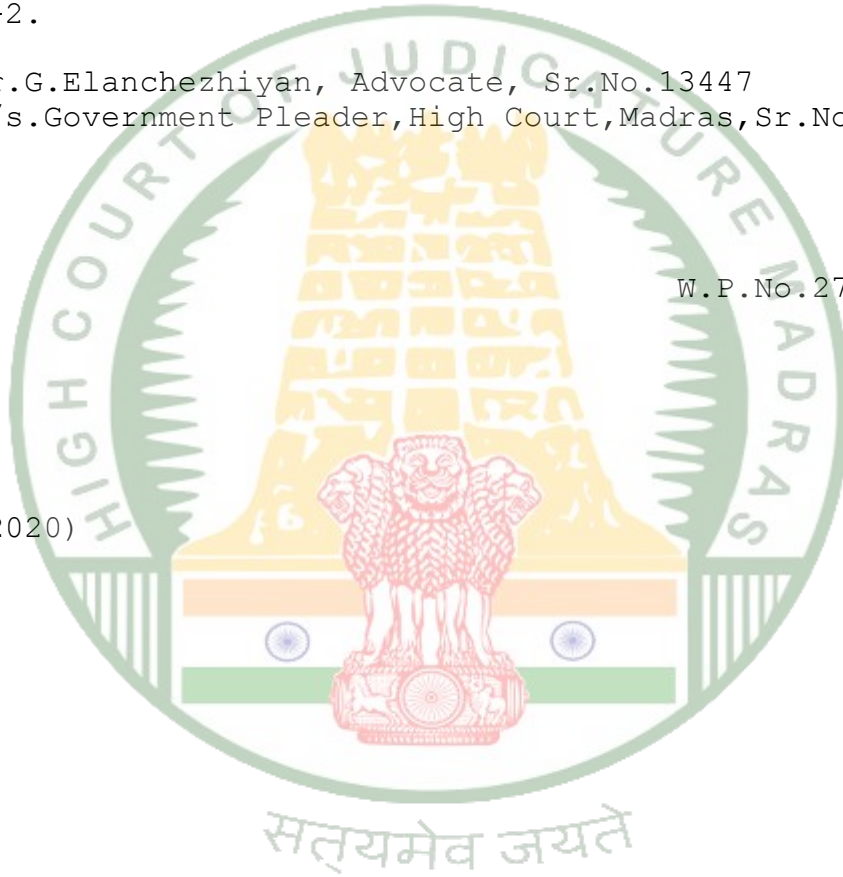
3.The Deputy Director of Horticulture, (I/C)
Vellore-2.

+1cc to Mr.G.Elanchezhiyan, Advocate, Sr.No.13447

+1cc to M/s.Government Pleader, High Court, Madras, Sr.No.13120

W.P.No.27917 of 2015

SJ(CO)
GS(01/06/2020)



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