

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.8260 of 2020
and
WMP.No.9879 and 9882 of 2020

- 1.G.Nathiya
- 2.V.Sivaraj
- 3.B.S.Saravanan
- 4.P.Poongodi
- 5.D.Kishore Kumar
- 6.P.Vasanth
- 7.R.Pramila Devi
- 8.S.Gurushankar

...Petitioners

Vs.

- 1.The Government of Tamil Nadu,
Represented by its Principal Secretary to Government,
Animal Husbandry,
Fisheries and Dairy Development Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The Secretary to Government of Tamil Nadu,
Personnel and Administrative Reforms Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 3.The Tamil Nadu Public Service Commission,
Represented by its Secretary,
Frazer Bridge Road,
Chennai - 600 003.
- 4.The Commissioner/ The Director,
Milk Production and Dairy Development Department,
Chennai - 600 051.
- 5.The Additional Milk Commissioner,
Milk Production and Dairy Development Department,
Chennai - 600 051.

6.The Deputy Milk Commissioner,
Milk Production and Dairy Development Department,
Chennai - 600 051. ...Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records related to the proceedings of the 5th respondent dated 13.03.2020 in R.C.No.01/D1/2020 and quash the same and consequently direct the respondents to consider the candidature of the petitioner by filling up the vacancies in the post of Cooperative Sub Registrar by granting promotion after completing the statutory procedure prescribed under the Tamil Nadu Government Service (Conduct and Service) Act, 2016 including the publication of seniority list and quash the same.

For Petitioners : M/s.N.Dhilipkumar
For Respondents : Mr.D.Raja for R1 and R2 AGP
Mr.L.P.Shanmugasundaram for R4 to R6
Special Government Pleader

O R D E R

The petitioners have filed this writ petition seeking to quash the proceedings of the fifth respondent dated 13.03.2020 and consequently direct the respondents to consider their candidature by filling up the vacancies in the post of Cooperative Sub Registrar, granting promotion after completing the statutory procedure as prescribed under the Tamil Nadu Government Service (Conduct of Service) Act, 2016 including the publication of seniority list.

2.When the matter was taken up, the learned Special Government Pleader has produced a copy of the communication in Rc.No.1/D1/2020, dated 27/06/2020 sent by the fourth respondent, stating that the impugned order was ordered to be cancelled and it is not in existence now. For better appreciation, the relevant portion of the said letter reads as follows:

"In this connection, it is submitted that, the Tamil Nadu Public Service Commission during the year 2015 has communicated a list of 137 candidates for appointment as Senior Inspectors for Dairy Development Department in the Combined Subordinate Civil Services (interview post) and in that list, it was clearly mentioned by the Tamil Nadu Public Service Commission, that the list was only a Provisional list

of the selected candidates based on the marks obtained by them in the selection examination and it was not a seniority list. Later in the year 2017, seniority was fixed by the Tamil Nadu Public Service Commission vide its letter dated 18.01.2017 to the aforementioned 137 senior Inspectors allotted to this Department, based on the communal rooster system.

In this connection, challenging the seniority list based on communal rotation, one of the above mentioned senior inspector filed a Writ Petition before the Hon'ble High Court of Madras in W.P.No:7511 of 2018 wherein the Hon'ble Division Bench of the High Court of Madras after examining similar writ Petitions filed, had delivered the judgment on the aforesaid writ Petition on 15.11.2019, declaring the Sections 1 (2), Sec.40(1) and Section 70 of the Tamil Nadu Government Service (Conditions of Service Act) 2016 as ultravires and unconstitutional and set aside the seniority list forwarded by the Tamil Nadu Public Service Commission based on the 200 Point rooster system and directed to re fix the seniority within a period of 12 weeks.

Whiles, aggrieved by the above order of the Division Bench, High Court of Madras, the Government of Tamil Nadu and Tamil Nadu Public Service Commission have filed a Special Leave Petition before the Hon'ble Apex Court vide SLP(C) Nos.2861-2876 of 2020 and the same were came up for hearing on 03.02.2020. Upon the hearing the same, the Hon'ble Apex Court had adjourned the matter for four weeks, which is still pending.

In the meantime, the panel for the Post of Cooperative Sub Registrar in this department has published for the year 2020 vide Rc.No:1/D1/2020 dated 13.03.2020 (impugned order) taking into consideration the list of eligible Senior Inspectors as per the list provided by the Tamil Nadu Public Service Commission on mark basis (at the time of their appointment) and the above impugned order has been challenged by the some senior inspectors of this department by the way of filing Writ Petitions in WP(MD) 5689 and 5690 of 2020 before the Madurai Bench of High Court of Madras. The Hon'ble High Court of Madras at Madurai Bench vide its order dated 17.03.2020 in the above Writs has directed to maintain the status quo on the panel which was published on 13.03.2020.

However considering the legal complications, without prejudice to the Writ Petitions pending before the Hon'ble Court, the drawal of panel as communicated in the reference dated 13.03.2020 (impugned order) by the 4th respondent was ordered cancelled and the impugned order is not in existence now."

3. In the opinion of this Court, since the impugned order has been cancelled and is not in existence as of now, nothing survives for adjudication, except recording the aforesaid submission and the communication produced on the side of the respondents.

4. Accordingly, the letter sent by the fourth respondent dated 27/06/2020 to the learned Special Government Pleader is recorded and this writ petition stands closed. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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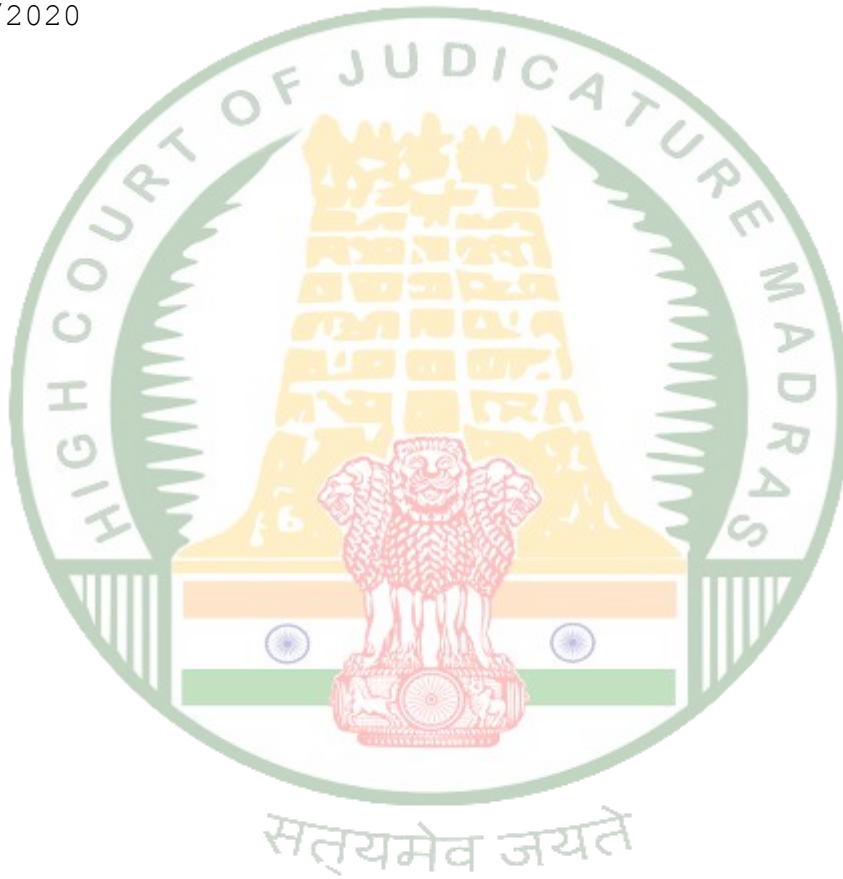
To

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VG II (CO)
KKV/04/09/2020



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