

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.NO.35169 of 2019

R. Chandrajni

... Petitioner

-Vs-

1. The Director of Agriculture
Chepauk, Chennai 600 005.
2. The Joint Director of Agriculture
Nagercoil 629 001.
3. Thiru. R. Sivaprasad
Assistant Agricultural Officer
Soil Testing Laboratory
Nagercoil 629 001.

... Respondents

R3 deleted vide order dated 19.12.2019 made in
W.P.No.35169/2019

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records in the order bearing No. Ni2/7034/2018, dated 19.09.2019 passed by respondent No.1 and quashing the same.

For Petitioner : Mr. M. Radhakrishnan

For Respondents: Mr. P.S.Siva Shanmugasundaram
Special Government Pleader for R1 & R2.

ORDER

This Writ Petition has been filed challenging the proceedings of the second respondent dated 19.09.2019 cancelling the transfer order that was issued by the second respondent on the advice of the first respondent.

2. The case of the petitioner is that she joined as an Assistant Agricultural Officer in the year 1987. She was working at Agastheeswaram at Kanyakumari District. She made a request to the second respondent to transfer her to Nagercoil on

the ground that her family is at Nagercoil and that she is finding it difficult to stay away from the family. Considering the transfer request sought for by the petitioner, the second respondent had, by proceedings dated 17.09.2019, transferred the petitioner to the Office of the Assistant Director of Agriculture at Nagercoil. Within two days from the order of transfer passed by the second respondent, yet another order came to be passed on 19.09.2019 cancelling the earlier transfer order and posting the petitioner at the same station on the ground that she has been given promotion to the post of Assistant Seed Officer. Aggrieved by the same, the present Writ Petition has been filed before this Court.

3. When the matter came up for hearing during the previous occasion on 30.01.2020, a counter affidavit was filed by the first respondent to the effect that the petitioner had been promoted to the post of Assistant Seed Officer by virtue of the proceedings dated 27.08.2019 and therefore, the second respondent does not have the power or jurisdiction to transfer the petitioner to Nagercoil and it is only on that ground, the earlier transfer order passed by the second respondent was cancelled.

4. This Court after taking into consideration the rival submissions, passed the following order on 30.01.2020 and the same is extracted hereunder:

"It is seen from the counter affidavit that has been filed by the 1st respondent that by proceedings dated 27.08.2019 of the Additional Director of Agriculture (Personnel Management), 21 persons were promoted to the post of Assistant Seed Officer. The petitioner was also one among them and her name is found at Serial No.3.

2.Mr.M.Radhakrishnan, learned counsel appearing for the petitioner disputed the fact that the proceedings dated 27.08.2019 is a promotion order. The learned counsel submitted that even assuming that these proceedings are to be construed as a promotion order, the same was not served on the petitioner and she was not relieved from duty and was not asked to join the concerned office at Ramanathapuram. The learned counsel further submitted that the petitioner is even willing to relinquish this promotion and she is more concerned with the transfer that she had sought for and she wants her to be relieved and permitted to join the place to which she was transferred by proceedings dated 17.09.2019.

3.Mr.P.S.Siva Shanmuga Sundaram, learned Special Government Pleader appearing on behalf of the respondents submitted that if the petitioner wants to relinquish the promotion, she may be directed to file an affidavit to that effect before this Court. Thereafter, the earlier transfer order that was passed on 17.09.2019 can be taken into consideration, where the petitioner will continue in the post of Assistant Agricultural Officer. The learned counsel submitted that he will take necessary instructions from the respondents in this regard.

4.Post this case under the same caption on 06.02.2020 and in the mean time, the petitioner is directed to file an affidavit before this Court making her stand clear regarding relinquishment of the promotion granted to her to the post of Assistant Seed Officer."

5. When the matter was taken up for hearing today, an additional affidavit has been filed by the petitioner wherein she has stated that she is relinquishing her promotion to the post of Assistant Seed Officer and that she must be permitted to join as Assistant Agricultural Officer, Soil Testing Laboratory at Nagercoil. The relevant paragraph in the additional affidavit is extracted hereunder:

"I state that I hereby relinquish my promotion to the post of Assistant Seed Officer granted to me vide proceedings of additional Director of Agriculture (Personel Management), Officer of the Director of Agriculture, Chennai, bearing No. FSE3/61807/2019 dated 27.08.2019. I may be permitted to join as Assistant Agricultural Officer, Soil Testing Laboratory, Nagercoil to which post I was transferred vide an order bearing No.Ni2/7034/2018 dated 17.09.2019 passed by respondent No.2 herein."

6. The learned Special Government Pleader appearing on behalf of the official respondents submitted that the third respondent has already been posted at the Soil Testing Laboratory at Nagercoil and therefore, the petitioner must be directed to make a fresh representation to the first and second respondents to again consider the request made by the petitioner seeking for transfer.

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

8. The only ground on which the earlier transfer order was cancelled was on the advice made by the first respondent to the effect that the petitioner has already been promoted to the post of Assistant Seed Officer and consequently the second respondent will not have the power or jurisdiction to pass the order of transfer.

9. Now the petitioner has taken a very clear stand that she is relinquishing the promotion granted to her to the post of Assistant Seed Officer and she will continue in the post of Assistant Agricultural Officer and therefore, the earlier transfer order passed in her favour must be restored. The official respondents are seeking for some time to consider the claim made by the petitioner since the third respondent has already been posted as Assistant Agricultural Officer at Nagercoil. This development happened only due to the cancellation of the earlier transfer order that was passed on 17.09.2019. By virtue of the relinquishment made by the petitioner, her earlier status must continue and therefore, the transfer that was granted in favour of the petitioner cannot be taken away only on the ground that the third respondent has been posted in the same station at Nagercoil. The first and second respondents will have to make an alternative arrangement for the third respondent and they must take immediate steps to transfer the petitioner to the station at Nagercoil. However, this Court is willing to give some time to the first and second respondents to make alternative arrangement for the third respondent.

10. In view of the above discussions, there shall be a direction to the first and second respondents to pass appropriate orders transferring the petitioner to the Soil Testing Laboratory at Nagercoil in her capacity as Assistant Agricultural Officer within a period of four weeks from the date of receipt of a copy of this order. In the meantime, the first and second respondents shall make alternative arrangements for posting the third respondent.

11. This Writ Petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(J)

//True copy//

Sub Assistant Registrar

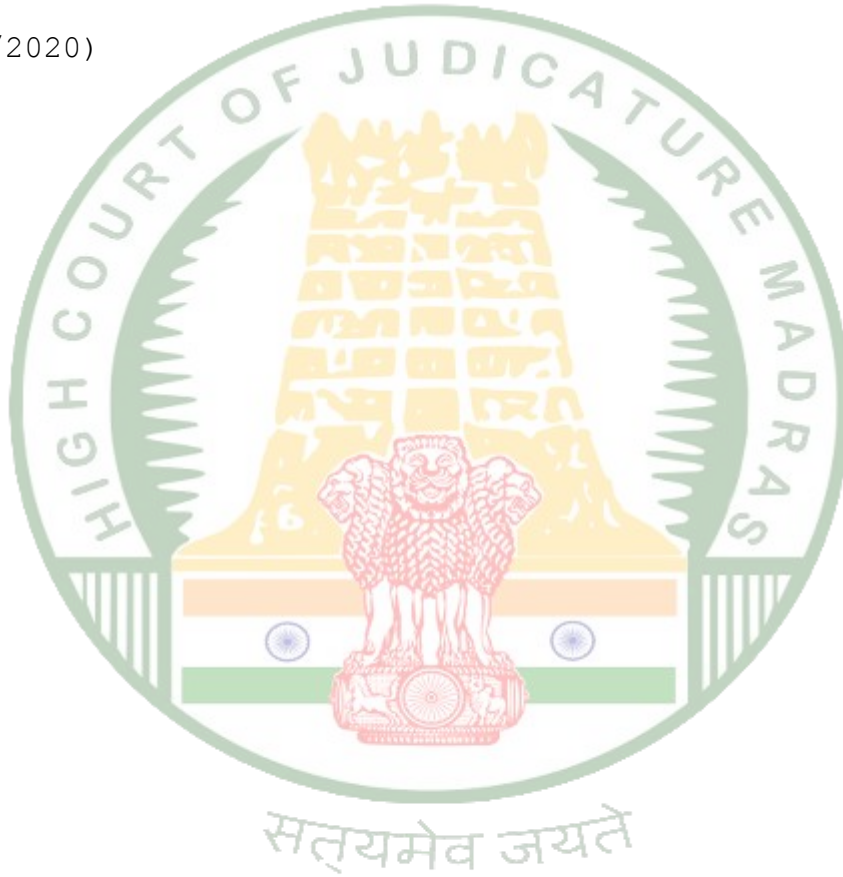
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To

1. The Director of Agriculture
Chepauk, Chennai 600 005.
 2. The Joint Director of Agriculture
Nagercoil 629 001.
- +1cc to Government Pleader SR.No.10412

W.P.NO.35169 of 2019

GMV (22/05/2020)



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