



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).Nos.10836, 10837, 10838,
10839, 10720 and 10721 of 2015
and

M.P. (MD) Nos.1, 1, 1, 1, 1, 1, 2, 2, 2, 2, 2, and 2 of 2015

M.Chelladurai	...Petitioner in WP(MD). 10836 of 2015
V.Lakshmanan	...Petitioner in WP(MD). 10837 of 2015
G. Rajendran	...Petitioner in WP(MD). 10838 of 2015
P. Thiyagarajan	...Petitioner in WP(MD). 10839 of 2015
K. Mariappan	...Petitioner in WP(MD). 10720 of 2015
C. Devendran	...Petitioner in WP(MD). 10721 of 2015

-Vs-

1.The Director,
Horticulture and Plantation Crops,
Chepakam, Chennai-5.

2.The Joint Director of Agriculture,
Pudukottai.

3.The Deputy Director of Horticulture,
Pudukottai. ... Respondents in WP(MD). 10836 of 2015

1. The Director, Horticulture and Plantation Crops,
Chepakam, Chennai - 5.

2. The Joint Director Of Agriculture,
Pudukkottai District.

3. The Deputy Director Of Horticulture,
Pudukkottai District

... Respondents in WP(MD). 10837 of 2015

1. The Director, Horticulture and Plantation Crops,
Chepakam, Chennai - 5.

2. The Joint Director Of Agriculture,
Pudukkottai District.

3. The Deputy Director Of Horticulture,
Pudukkottai District.



4. The Assistant Director Of Agriculture,
Pudukkottai District.

... Respondents in WP(MD). 10838 of 2015

1. The Director, Horticulture and Plantation Crops,
Chepakkam, Chennai - 5.

2. The Joint Director Of Agriculture,
Pudukkottai District.

3. The Deputy Director Of Horticulture,
Pudukkottai District.

4. The Director,
State Agricultural Extension Management Institute (Stamin),
Kudumianmalai, Pudukkottai District.

... Respondents in WP(MD). 10839 of 2015

1. The Director, Horticulture and Plantation Crops,
Chepakkam, Chennai-5.

2. The Joint Director Of Agriculture,
Pudukkottai.

3. The Deputy Director Of Horticulture,
Pudukkottai.

4. The Assistant Director Of Agriculture,
Manamelkudi, Pudukkottai District.

... Respondents in WP(MD). 10720 of 2015

1. The Director, Horticulture and Plantation Crops,
Chepakkam, Chennai-5.

2. The Joint Director Of Agriculture,
Pudukkottai.

3. The Deputy Director Of Horticulture,
Pudukkottai.

4. The Assistant Director Of Agriculture,
Annavasal, Pudukkottai District.

... Respondents in WP(MD). 10721 of 2015

Prayer in WP(MD). 10836 of 2015:

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the proceedings of the impugned order of the second respondent in Se.Mu.Ka.Aa.Ni3/9833/2012, dated 22.06.2015 and the consequent order of the second respondent in Se.Mu.Ka.Aa.Ni3/9833/2012, dated 23.06.2015 and quash the same.

Prayer in WP(MD). 10837 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to the Proceedings of the Impugned order of the 2nd respondent in Se. Mu. Ka. Aa. Ni.3/9833/2012 dated 22.06.2015 and the consequent order of the 3rd respondent in Se. Mu. Ka. Aa. Ni.3/9833/2012 dated 23.06.2015 and quash the same and pass



such further or other orders.

Prayer in WP(MD). 10838 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to the Proceedings of the Impugned order of the 2nd respondent in Se. Mu. Ka. Aa. Ni.3/9833/2012 dated 22.06.2015 and the consequent order of the 4th respondent in Se. Mu.Ka. No. Aa1/2015-2016 dated 23.06.2015 and quash the same.

Prayer in WP(MD). 10839 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to the Proceedings of the Impugned order of the 2nd respondent in Se. Mu. Ka. Aa. Ni.3/9833/2012 dated 22.06.2015 and the consequent order of the 4th respondent in Se. Mu.Ka. No. Aa/1906/2012 dated 23.06.2015 and quash the same.

Prayer in WP(MD). 10720 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings of the impugned order of the 2nd respondent in Se.Mu.Ka.Aa.Ni3/9833/2012 dated 22.6.2015 and the consequent order of the 4th respondent in Se.Mu.Ka.No.Aa401/2015 dated 23.06.2015 and quash the same.

Prayer in WP(MD). 10721 of 2015:

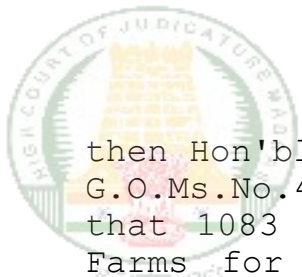
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the proceedings of the impugned order of the 2nd respondent in Se.Mu.Ka.Aa.Ni3/9833/2012 dated 22.6.2015 and the consequent order of the 4th respondent in Se.Mu.Ka.No.815/2015

For Petitioner	: Mr.R.Maheswaran
(in all W.Ps)	
For Respondents	: Mr.D.Muruganandham
(in all W.Ps)	Additional Government Pleader

COMMON ORDER

The order of reversion is under challenge in all these writ petitions.

2.The petitioners admittedly were engaged as Farm Workers in Government Horticulture Farms, Vallathirakottai on daily wages basis. Admittedly, the petitioners were working in the farm and the salary was paid on daily wages basis. The Horticulture Employees Association had met the then Hon'ble Chief Minister of the State of Tamil Nadu and made a request to regularise the services of these daily wages employees working in the farms as farm workers. The



then Hon'ble Chief Minister of Tamil Nadu and an order was passed in G.O.Ms.No.494, Agriculture(AA1) Department, dated 29.11.2007 stating that 1083 daily wages employees working in the State Horticulture Farms for more than 10 years were brought under the Tamil Nadu Horticulture Development Agency, a society registered under the Societies Registration Act, 1975 as a "Special Purpose Vehicle" for implementing various schemes of the Horticulture Department. Thus, it is the special Government Order passed granting a special time scale of pay. It is pertinent to note that the post of farm workers are not found in the list of category enlisted in the Tamil Nadu Basic Service Rules. The post was treated as a special post and special Government Order was passed granting time scale of pay to these employees.

3.The scale of pay to the farm workers have been fixed at Rs.1300-20-1500-25-2000 on par with Noon Meal employees. It is made clear that the employees are not eligible to draw the House Rent Allowance, City Compensatory Allowance and other allowance and they have been regularised only for the purpose of bringing them under the regular time scale of pay. Even as per the Government Order issued in G.O.Ms.No.494, these employees working in the category of farm workers have not brought under the purview of the Service Rules as Government Servant or in any one of the posts mentioned in the Tamil Nadu Basic Service.

4.The recruitment to the post of Office Assistants has been made as per the provisions under the Special Rules for Tamil Nadu Basic Service. Nowhere in the said Special Rules, it is contemplated that the post of Office Assistants can be made by promotion/by transfer of service from the category of farm workers, in other words the post of farm worker is not a feeder category for promotion to the post of Office Assistant under Class IV in the Tamil Nadu Basic Service. Thus, the appointment of Office Assistants from farm workers by way of promotion/transfer of service is illegal and contrary to the statutory provisions.

5.The Joint Director of Agriculture, Pudukkottai issued the promotion orders in proceedings dated 19.11.2012 promoting the writ petitioners from the post of farm workers to the post of Office Assistant. When there is no provisions under the Tamil Nadu Basic Service Rules and there is no cadre of farm workers are inserted in the Tamil Nadu Basic Rules, a promotion granted itself is contrary to the Rules in force and initial Government Order passed in G.O.Ms.No.494 is only a beneficial order granting the benefit of special time scale of pay to these farm workers, even the House Rent Allowance and City Compensatory Allowance and other allowance are not extended to these employees. Therefore, these farm workers cannot be compared with the regular employees of the Government, who were recruited under the Tamil Nadu Basic Service Rules and also cannot be granted to these employees with reference to



the post under the Tamil Nadu Basic Service Rules. The promotions granted by the Joint Director of Agriculture, Pudukkottai was review by the Director of Horticulture and it was found that such promotions were erroneously granted to the petitioners, which is otherwise contrary to the Service Rules in force. Accordingly, the Director instructed the Joint Director to cancel the erroneous appointments made itself in violation of the Government guidelines issued in G.O.Ms.No.1435, Public (Services-A) Department, dated 19.08.1984. It is contended that the Joint Director of Agriculture, Pudukkottai has committed mistake in interpreting the Rules and guidelines in force and erroneously promote six ineligible farm workers as Office Assistant during 2011-2012. In order to correct the mistake the Director of Agriculture, Chennai vide letter No.Aa.U.Pa.2/57729/2015, dated 16.06.2015 had directed the Joint Director of Agriculture, Pudukkottai to cancel the order issued vide proceedings, dated 19.11.2012 promoted the farm workers as Office Assistant immediately. In response to the directions of the Director of Agriculture, Chennai, the Joint Director of Pudukkottai in proceedings dated 22.06.2015 cancelled the promotion and placed them in their regular farm workers post.

6.The counter in clear terms stated that cancelling of promotion by transfer has been issued immediately in order to rectify the error and so as to avoid claiming of similar category of 1083 number of farm workers throughout the Tamil Nadu to such irregular promotions and avoid knocking the doors of the Hon'ble High Court to seek promotion by citing erroneous promotion made by the Joint Director of Agriculture, Pudukkottai. Thus, the cancellation has been issued. The irregular appointments were made by then Joint Director of Agriculture, Pudukkottai were brought to the notice of the Director of Agriculture, who is the cadre of management authority of the establishment of the Agriculture Department and Sister departments. The Director of Agriculture, Chennai who is the immediate controlling authority of the Joint Director of Agriculture, Pudukkottai has found that they are not eligible for recruitment of Office Assistants by promotion through transfer as per the reasons stated hereunder:

(i)the services of the daily wage farm workers in Tamil Nadu Horticultural Development Agency (TANHODA) as regular farm workers as per the rules and regulations of TANHODA and put them under a special scale of pay of Rs.1300-20-1500-25-2000 (pre revised) on par with the noon meal workers of the Tamil Nadu Government and they were eligible only for dearness allowances and not eligible for House Rent allowances and other allowances as such they are not brought under Class IV category employees under the purview of the Tamil Nadu Basic Service and as such they were



not eligible for considering further promotions;

(ii) the promotion by transfer to the post of Office Assistant could be made only from the 87 category of eligible class IV Basic Servants posts approved by the Government of Tamil Nadu under the Tamil Nadu Basic Service Rules only. The Farm Worker posts by which the 6 respondents had worked has not been categorised under such 87 eligible class IV Basic Servants posts.

render the natural justice by applying the rules rightly in correcting the mistakes.

10. It is humbly submitted that kind attention is invited to the orders of Government issued in G.O.Ms.No.1435, Public (Special-A) Department, dated 19.08.1964. wherein the Government have issued the following clarification for the promotion or appointment in an officiating capacity found to be erroneous: "

7. Under these circumstances, the question of issuing any notice would not arise at all and by remanding the matter, no purpose would be served.

8. The learned counsel for the petitioner states that no notice was issued and therefore, the writ petition is to be remanded back to the authority concerned for passing fresh orders.

9. Mechanical remanding of the matter do no service to the cause of justice. While remanding the matter, Courts are expected to adopt a pragmatic approach and the purpose sought to be achieved. Mere remand without adjudication in all circumstances, may not be proper. In the present case, the respondents have elaborately stated that the promotion of the writ petitioners are void abinitio and directly in violation of the Rules in force. These farm workers are given a concession by the then Hon'ble Chief Minister of Tamil Nadu and Government Order passed is also very clear that, they are entitled for special time scale of pay without the benefit of other allowance. Thus, they are not entitled for any further promotion to the post sanctioned under the Tamil Nadu Basic Service Rules. This apart, in case of remand, the authority competent/respondents has to pass the order in consonance with the counter affidavit now filed. Thus, there is no purpose in remanding the matter and the non-issuance of show cause notice has not prejudiced to the interest of the writ petitioners. If the interest of the writ petitioners is prejudiced, then alone the Court can remand the matter by directing the authorities to reconsider the issue and if the rights of the



parties are not prejudiced, then remanding the matter back for issuance of notice and pass orders would not serve any purpose and it will only prolong and protract the disputes and therefore, this Court is of the considered opinion that the writ petitions deserve no remand as the legal rights as well as the Rules in force are well considered by this Court in the aforementioned paragraphs.

10.This being the factum established, this Court is of the considered opinion that, there is no error or infirmity in respect of the impugned orders of reversion passed by the respondents and accordingly, the said orders stand confirmed. Consequently, all these Writ Petitions stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

11.Three writ petitioners namely M.Chelladurai, V.Lakshmanan and G.Rajendran had already retired from service and the respondents are bound to settle the retirement benefits as per the Rules in force.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

- 1.The Director,
Horticulture and Plantation Crops,
Chepakam, Chennai-5.
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Pudukottai.
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Pudukottai.
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7. The Deputy Director Of Morticulture,
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8. The Assistant Director Of Agriculture,
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+5 CC to M/s.R.MAHESWARAN, Advocate (SR-24488 to 24430, 24432 &
24493[F] dated 08/12/2020)

+1 CC to M/s.GP (SR-24457[F] dated 08/12/2020)

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KMV(CO)
TR(22.12.2020) 8P 15C