



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. No.25576 of 2010
and M.P. No.2 of 2010

C.Ramasamy

... Petitioner

Vs.

- 1.Government of Tamil Nadu,
Rep. by the Agricultural Production
Commissioner/Secretary to Government,
Secretariat, Chennai - 600 009.
- 2.The Commissioner/Director of Agriculture,
Chepauk, Chennai - 600 005.
- 3.The Joint Director of Agriculture,
Vellore - 636 002.

... Respondents

Prayer: Writ petition filed under Section 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent relating to Letter No.Ka.Pa.N1.2/86532/08 dated 04.11.2009, quash the same and to issue consequential directions to the Respondents to promote the petitioner as Assistant Agricultural Officer with retrospective effect from the date of promotion of his immediate junior, i.e. from 18.07.1995 in the light of the proposals of the third respondent in letter No.A3/13146/2008 dated 19.02.2009 with consequential service and monetary benefits.

For petitioner : Mr.S.Balakrishnan for
Mr.M.Ravi

For respondents : Mr.T.Sampathkumar,
Government Advocate

O R D E R

The petitioner was appointed as the Field Demonstration Officer on 25.09.1975. Though he has fully qualified and eligible for promotion as Assistant Agricultural officer in the Tamil Nadu Agricultural Subordinate Service in the year 1994, he was not deputed for the training for 21 days, which was conducted from 17.11.1994 to 07.12.1994.



2. The Joint Director of Agriculture, Vellore has initiated disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (D. & A.) Rules in his Pro. No.A1/14983/91(3) dated 06.09.1991, imposing punishment of "Stoppage of increment for three years with cumulative effect". Due to the currency of punishment, the petitioner's name was not considered for training in Batch No.11 from 19.10.1994 to 08.11.1994 and another batch who were earlier omitted to be sent, were deputed training from 17.11.1994 to 07.12.1994.

3. According to the petitioner, the currency of punishment was over on 06.09.1994. Hence, the petitioner has to be deputed for that training along with the above batches but the petitioner's Junior one Govindasamy was deputed for training and he was promoted as Assistant Agricultural Officer on 18.07.1995. Since the currency of punishment imposed for the petitioner was over and he has fully qualified and eligible for attending 21 days training, he has made various representations to the respondents to promote him as Assistant Agricultural Officer from the date of promotion of his immediate junior. The 3rd respondent considered the representation of the petitioner dated 24.07.2008 and also forwarded a proposal to the 2nd respondent and the same was pending for orders.

4. Learned counsel for the petitioner further submitted that he has obtained information from the Joint Director of Agriculture, Vellore under the Right Information Act, 2005. As per which, there was no currency of punishment and his representations were submitted to the Commissioner and duly recommended, but no orders were received thereon. But his immediate junior was promoted on 18.07.1995, after completing his training program in the year 1995 without any recommendation, prior to the initiation of disciplinary proceedings against the petitioner in the year 1998.

5. Pursuant thereto, he has preferred a Writ Petition in W.P. No.14909 of 2009 before this Court to direct the respondents to promote the petitioner as Assistant Agricultural Officer with retrospective effect from the date of promotion his immediate junior in the light of the letter No.A3/13146/2008 dated 19.02.2009 from the third respondent to the second respondent, which was disposed by this Court vide order dated 30.07.2009. As per the direction of this Court, the 2nd respondent has passed impugned order in his Letter No.Ka.Pa.Ni.2/86532/2008 dated 04.11.2009 stating that since the punishment imposed in G.O.(3D) No.71, Agriculture Department dated 19.03.2008 was in currency, the request of the petitioner for promotion of Assistant Agricultural officer was rejected. But according to the petitioner, at that time i.e., in the year 1994-1995, there was no currency in punishment against the petitioner and the said currency in punishment was over on 06.09.1994.



6. The learned Government Advocate for the respondents submitted that as per the State and Subordinate Service Rules, the normal criteria for promotion to a higher post viz., seniority, the nature of punishments imposed on the employee, the pendency of charges, disciplinary proceedings, enquiry by the Director of Vigilance and Anti Corruption, qualification tests prescribed for higher posts, etc., should be followed while moving the employees to the higher post. Pursuant to the direction of this Court in W.P. No.14909 of 2009 dated 30.07.2009, the first respondent considered and rejected the petitioner's representation in view of the pendency of charges and disciplinary proceedings against him. Learned Government Advocate further submitted that after elapse of 15 years, the said request made by the petitioner has not been considered.

7. Heard the rival submissions of both the parties and perused the materials available on record.

8. Learned counsel for the respondent submitted that the writ petitioner has made a request before the third respondent to consider the request of the petitioner for promotion to the post of Assistant Agricultural Officer on par with his junior, was promoted in the year of 1995. It is brought to the notice of this Court that the third respondent has passed an order in proceedings in Letter No.Ka.Pa.Ni/86532/2008 dated 13.08.2011, whereby it is informed that the petitioner was promoted to the post of Assistant Agricultural Officer.

9. In view of the fact, it is seen that petitioner's junior was promoted in the year of 1995 after completing his training period i.e., 1994-1995. The writ petitioner did not seek any remedy to raise the same ground and seek to attend for the training program immediately after his junior was promoted. The petitioner has made request only in the year of 2008 for considering his name for promotion to the post of Assistant Agricultural Officer on par with his junior and the same was recommended and forwarded to the 2nd respondent. However, the 2nd respondent has not considered his request stating that at this distant point of time it cannot be considered.

10. Therefore this Court of the view that the petitioner ought to have sought the remedy at the earlier stage itself, immediately on the promotion of his juniors in the year of 1995. Only in the year 2008, he has made representation to consider his promotion on par with his junior and since the same was not considered, has filed this present writ petition after elapse of nearly 15 years and at this distant point of time, the relief sought for by the petitioner cannot be granted. This Court finds no merit in this writ petition.



WEB COPY

Accordingly, this writ petition stands dismissed. Connected miscellaneous petition is also closed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

rkp

To

1. The Agricultural Production
Government of Tamil Nadu,
Commissioner/Secretary to Government,
Secretariat, Chennai - 600 009.
- 2.The Commissioner/Director of Agriculture,
Chepauk, Chennai - 600 005.
- 3.The Joint Director of Agriculture,
Vellore - 636 002.

+1cc to Mr.M.Ravi, Advocate SR.No.68196

+1cc to Government Pleader SR.No.68345

W.P. No.25576 of 2010
and M.P. No.2 of 2010

SRA (CO)
GMY(20/01/2022)