

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

W.P.No.7181 of 2021
and WMP.No.7695 of 2021

K. Nirmala

... Petitioner

..Vs..

1. The Agricultural Production Commissioner
and Principal Secretary to Government
Secretariat,
Chennai 600 009.

2. The Director of Agriculture
Chepauk,
Chennai 600 005.

... Respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to proportionately consider the petitioner whose initial appointment as the Agricultural Officer (Research) on par with the Agricultural Officers (Extension) in promotion to the post of Deputy Director/Joint Director of Agriculture in existing/newly created/future vacancies by treating both the cadres equally in view of the merger of the posts in G.O.Ms.No.537 dated 24.12.2007 by considering her representation dated 12.10.2020.

For Petitioner : Mr. N.Manokaran

For Respondents : Mr.J. Pothiraj
Special Govt.Pleader

ORDER

The petitioner has come forward with this writ petition seeking a direction to the respondents to proportionately consider her initial appointment as the Agricultural Officer (Research) on par with the Agricultural Officers (Extension) in promotion to the post of Deputy Director/Joint Director of Agriculture in the existing /newly created/future vacancies by treating both the cadres equally in view of the merger of the posts in G.O.Ms.No.537, dated 24.12.2007 by considering her representation dated 12.10.2020.

2. Mr.J.Pothiraj, learned Special Government Pleader takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The facts of the case is that the petitioner was recruited through TNPSC for the post of Agricultural Officer (Research) and joined duty on 28.11.1990. At that time, the entry level post of Agricultural Officer was done under two categories, namely, Agricultural Officer (Research) and Agricultural Officer (Extension). Those who are appointed as the Agricultural Officers (Research) were accommodated and employed in various soil based laboratories. They were given training in various institutes headed by the Assistant Agricultural Chemist/Agricultural Chemist. While so, the first respondent issued G.O.Ms.No.537 Agriculture (AA8) Department dated 24.12.2007 for merger and restructuring of the agriculture department by allowing both the Research and Extension wing to work interchangeably. The G.O. further clearly stated that the merger of Research and Extension wing will not affect the seniority, promotional prospects and service conditions of each cadre. Meanwhile, G.O.Ms.No.256 dated 08.11.2019 was issued by placing 3 Assistant Directors of Research wing in the panel for promotion as Deputy Directors. Though the State Government has created 5 new posts of Joint Director of Agriculture and 11 posts of Deputy Director of Agriculture, no officers from the Research wing were considered for promotion and only the persons from Extension wing were given promotion. Hence, the petitioner has submitted a representation dated 12.10.2020 to the respondents requesting to give promotion proportionately to the post of Deputy Director/Joint Director of Agriculture from both Research and Extension wings. But till now, no action has been taken. Hence, the petitioner is constrained to file this writ petition.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondents, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the representation of the petitioner dated 12.10.2020, if not already disposed of and taking note of G.O.Ms.No.537 dated 24.12.2007, if the same is applicable to the case of the petitioner and if not superseded subsequently, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 120 days from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondents shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 12.10.2020 and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

dpq

To

1. The Agricultural Production Commissioner
and Principal Secretary to Government,
Secretariat,
Chennai - 600 009.

2. The Director of Agriculture,
Chepauk,
Chennai - 600 005.

+1cc to Mr.N.Manokaran, Advocate SR.No.18243

+1cc to Special Government Pleader SR.No.18469

W.P.No.7181 of 2021

UM(CO)

GMV (12/07/2021)



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