

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.03.2021
CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.7315, 7319, 7372 & 7375 of 2021
and

WMP Nos.7817, 7822, 7874 & 7879 of 2021
(Heard through VC)

V.S.Pushpanathan ... Petitioner in W.P.No.7315 of 2021
G.Rooban Kumar ... Petitioner in W.P.No.7319 of 2021
R.H.Annadurai ... Petitioner in W.P.No.7372 of 2021
Baskaran ... Petitioner in W.P.No.7375 of 2021

Vs.

1. Agricultural Production Commissioner and
Secretary to Government,
Agricultural Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Chief Engineer,
Agricultural Engineering Department,
Nandanam, Chennai - 600 035. ... Respondents in all W.Ps.

PRAYER in W.P.No.7315 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to include the name of the petitioner in the panel for promotion to the post of Assistant Executive Engineer (Agricultural Engineering) in the panel year 2020-2021 notwithstanding the registration of the cases in Crime No.10 of 2012 on the file of the Inspector of Police, Special Investigation Cell, Vigilance and Anti Corruption, Chennai (FIR Stage) as per Rule 36 of Tamil Nadu State and Subordinate Service Rules and by considering the representation dated 04.03.2019 submitted by the petitioner.

PRAYER in W.P.No.7319 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to include the name of the petitioner in the panel for promotion to the post of Assistant Executive Engineer (Agricultural Engineering) in the panel year 2020-2021 notwithstanding the registration of the cases in Crime No.07 of 2012 on the file of the Inspector of Police, Special Investigation Cell, Vigilance and Anti Corruption, Chennai (FIR Stage) as per Rule 36 of Tamil Nadu State and Subordinate Service Rules and by considering the representation dated 04.03.2019 submitted by the petitioner.

PRAYER in W.P.No.7372 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to include the name of the petitioner in the panel for promotion to the post of Assistant Executive Engineer (Agricultural Engineering) in the panel year 2020-2021 notwithstanding the registration of the cases in Crime No.08 of 2013 on the file of the Inspector of Police, Special Investigation Cell, Vigilance and Anti Corruption, Chennai (FIR Stage) as per Rule 36 of Tamil Nadu State and Subordinate Service Rules and by considering the representation dated 01.03.2021 submitted by the petitioner.

PRAYER in W.P.No.7375 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to include the name of the petitioner in the panel for promotion to the post of Assistant Executive Engineer (Agricultural Engineering) in the panel year 2020-2021 notwithstanding the registration of the cases in Crime No.08 of 2013 on the file of the Inspector of Police, Special Investigation Cell, Vigilance and Anti Corruption, Chennai (FIR Stage) as per Rule 36 of Tamil Nadu State and Subordinate Service Rules and by considering the representation dated 04.03.2019 submitted by the petitioner.

For Petitioners

in all W.Ps : Mr.T.Sellapandian

For Respondents

in all W.Ps : Mr.J.Pothiraj

Special Government Pleader

COMMON ORDER

As the issue involved in the above Writ Petitions is one and the same, cases are taken up for disposal by a common order.

2. Heard the learned counsel on either side and perused the material documents available on record.

3. The Writ petitions are filed, seeking a direction to the respondents to include the name of the petitioners in the panel for promotion to the post of Assistant Executive Engineer (Agricultural Engineering) for the year 2020-2021 notwithstanding the registration of the cases against the petitioners.

4. The learned counsel for the petitioners submitted that mere registration of First Information Report cannot be a bar for inclusion of the name of the petitioners in the panel for promotion. He further submitted that in order to ensure as to whether any charge sheet has been filed in Crime Nos.10 of 2012, 07 of 2012, 08 of 2013 or not, the petitioners submitted copy

applications before the learned Chief Judicial Magistrate, Vellore to furnish them copy of the Charge sheet, if any, filed in their case. But, the applications were returned on 06.03.2021 by the learned Chief Judicial Magistrate, Vellore, with the following endorsement:

"Charge sheet has not been filed and hence, the document sought for cannot be furnished at the stage. Hence, returned."

5. The learned counsel for the petitioners also relied upon Rule 4j of the Tamil Nadu State and Subordinate Service Rules, relating to promotion and the said Rule is extracted for better understanding:

4(j) Filing of case in the Court- Mere filing of cases in Courts by the appropriate Investigating Authority against a member of service, shall not be a bar for inclusion of his name in the approval list. If specific charges are framed or charge sheet has been filed in the criminal case on the crucial date his name shall not be considered for inclusion in the approved list.

6. Considering the facts and circumstances of this case, taking note of the endorsement made by the Chief Judicial Magistrate, Vellore referred supra and Rule 4j of the Tamil Nadu State and Subordinate Service Rules, this Court directs the respondents to consider the representation of the petitioners dated 04.03.2019, 04.03.2019, 04.03.2019 and 01.03.2021, respectively, if there are no legal impediments and pass appropriate orders, in accordance with law, after affording an opportunity of hearing to the petitioner, as expeditiously as possible, preferably within a period of 30 days from the date of receipt of a copy of this order. The petitioners shall appear for personal hearing on the specified date fixed by the respondents either physically or virtually or he shall send a written submission through registered or speed post, which can be treated as a personal hearing. In case the petitioners fail either to appear in-person or submit his written submission, there is no bar for the respondents to pass orders on the respondents based on the available documents before him and the petitioners, at a later point of time, cannot take a plea that opportunity of hearing was not afforded.

7. The Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(C.O.)

//True Copy//

Sub Assistant Registrar

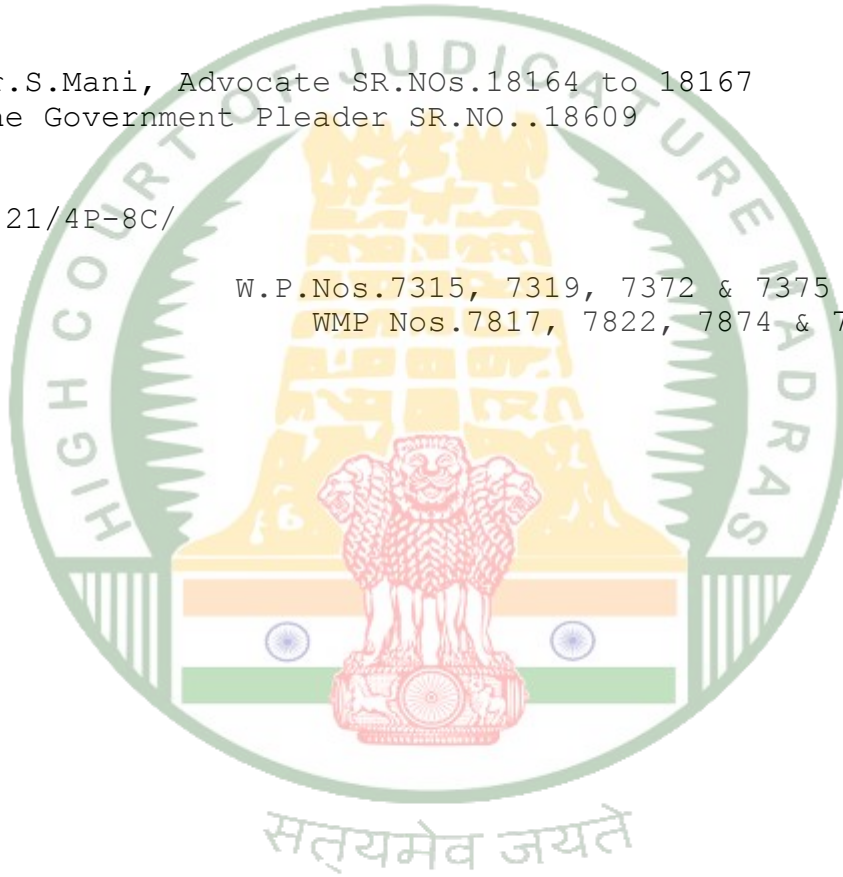
To

1. The Agricultural Production Commissioner
and Secretary to Government,
Agricultural Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Chief Engineer,
Agricultural Engineering Department,
Nandanam, Chennai - 600 035.

+4cc to Mr.S.Mani, Advocate SR.NOs.18164 to 18167
+1cc to The Government Pleader SR.NO..18609

AKM/07.04.21/4P-8C/

W.P.Nos.7315, 7319, 7372 & 7375 of 2021 and
WMP Nos.7817, 7822, 7874 & 7879 of 2021
22.03.2021



WEB COPY