



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A. Nos.2008 to 2010 of 2018 and
C.M.P. Nos.15926 to 15930 of 2018

1.The Secretary
Government of Tamil Nadu
Agriculture Department
Fort St. George, Chennai - 600 009

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

3.Director of Horticulture and Plantation Crops
Chepauk,
Chennai - 600 005

... Appellants in all Writ Appeals

vs

Tmt.D.Suseela	... Respondent in W.A. No.2008
H.S.Siddagangaiah	... Respondent in W.A. No.2009
P.Premavathy	... Respondent in W.A. No.2010

Prayer: Writ Appeals filed under clause 15 of the Letters Patent against the common order dated 27.04.2017 made in W.P. Nos.1174 to 1176 of 2017.

Common Prayer in W.P.Nos.1174 to 1176 of 2017:

Writ Petitions filed under Article 226 of the Constitution of India seeking a Writ of Certiorari to call for the impugned proceedings of the third respondent in GESI/ 22730/ 2014 dated 05.01.2017 and quash the same.

For Appellants	:	Mr.R.Neelakandan
in all WAs		State Government Counsel

For Respondents	:	Mr.V.Selvaraj, Senior Counsel
in all WAs		for Mr.D.Jayasingh



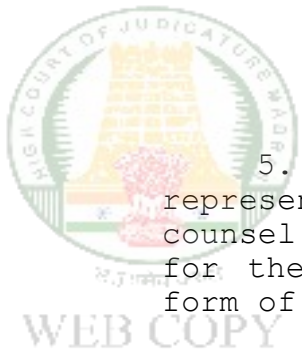
JUDGMENT
(delivered by PUSHPA SATHYANARAYANA, J.)

These intra-court appeals are directed against the common order of the learned single Judge dated 27.04.2017 made in W.P. Nos.1174 to 1176 of 2017. The appellants herein are the respondents before the writ court and the respondents herein are the writ petitioners.

2. The case of the writ petitioners is that they were selected through the Tamil Nadu Public Service Commission in the Agricultural Department as Agricultural Officers. Thereafter, vide G.O.Ms.No.537, Agricultural Department, dated 24.12.2007, the Government has restructured the Departments of Agriculture and Horticulture. Subsequently, the Director of Horticulture and Plantation Crops, Chepauk, namely the third respondent, promoted the respondents herein and posted them as Assistant Directors of Horticulture.

3. While they were working in the Horticulture Department, they were required to exercise their option for retention in the Horticulture Department or resume to their parent department. Accordingly, they have submitted their representation dated 10.01.2013 exercising their option to remain in the Horticulture Department with the protection of seniority as per the TNPSC. The Commissioner of Agriculture, namely the second respondent, vide proceedings dated 28.06.2016 repatriated 18 officers including the writ petitioners, who were working as Assistant Directors of Horticulture as Assistant Directors of Agriculture. On receipt of such proceedings, the petitioners have submitted another representation dated 29.06.2016 through proper channel requesting the appellants herein to retain them in the Department of Horticulture and Plantation Crops. However, the third appellant vide proceedings dated 14.07.2016 relieved all the above said 18 officers except the respondents herein. Thereafter, the third respondent has passed the proceedings in GES1/22730/2014 dated 05.01.2017, transferring the writ petitioners to the Agricultural Department as Assistant Directors of Agriculture stating that they have opted to go back to the Agricultural Department, but they have not at all given their willingness to go back to their parent department. The said proceedings were under challenge before the writ court.

4. The learned single Judge, upon hearing the parties and after perusing the records, set aside the impugned order repatriating the respondents herein/writ petitioners to the parent department. Challenging the said common order, these writ appeals have been filed.



5. Heard Mr.R.Neelakantan, learned State Government Counsel, representing the appellants and Mr.V.Selvaraj, learned senior counsel appearing for Mr.D.Jayasingh, learned counsel on record for the appellants and perused the materials available in the form of typed set of papers.

6. It is an admitted fact that the respondents herein have given their option to continue in the Horticulture Department. Further, the form issued by the appellants herein clearly mentions that the seniority ranking given by the Tamil Nadu Public Service Commission should be protected as per the terms and conditions stipulated in G.O. Ms. No.537 Agriculture (AAE) Department dated 24.12.2007 and in accordance with the judgment of this court dated 19.12.2012 made in W.P. Nos.19901, 25894, 29016 of 2008 and W.P. Nos.12025 and 13298 of 2012. When the respondents herein have filled in the option form served by the appellants herein, it is not correct to state by the appellants that the respondents have exercised their option to continue in Horticulture Department without a condition that their ranking assigned by the TNPSC should be protected.

7. The learned single Judge, referred to the Judgment of this court in S.Muniyandi & Others v. State of Tamil Nadu and others reported in 2013 (1) MLJ 919. In the said judgment in paragraph 67, it has been clarified that while preparing the common seniority list, the seniority as assigned by the Tamil Nadu Public Service Commission is taken as the basis and such course was also accepted by this Court. This is for the reason that Rule 35(a) of the Tamil Nadu State and Subordinate Service Rules also supports the case of the department. On this score, this Court, in the said judgment, has held that there is no infirmity in paragraph-11 of G.O.Ms.No.537 dated 24.12.2007 and also in G.O.Ms.No.548, dated 28.12.2007. Finally, paragraphs 12 and 17 of G.O.Ms.No.537 having been upheld, the petitioners, who were deployed to Horticulture Department, after exercising their option to continue in the Horticulture Department, are to enjoy the seniority assigned by the TNPSC. As such, we do not find any defect or infirmity in the order of the learned single Judge.

8. From the typed set of papers filed, it is noticed that after receipt of the order of the writ court, the third appellant herein has sent a final list to the Agricultural Production Commissioner and Principal Secretary to Government, for fixing seniority among the Assistant Director of Horticulture originally appointed in Horticulture Department and Assistant Director of Agriculture, who were deployed from Agriculture Department and opted to remain in Horticulture Department fixing the seniority. In the said list the name of the writ petitioners, namely Ms.D.Suseela, first respondent herein finds place in Sl.No.86, name of Mr.H.S.Siddagangaiah,



second respondent herein finds place in Sl. No.88 and the name of Ms.P.Premavathi, finds a place in Sl. No.73 of the said list. Against their names, there was a remark, which reads thus:

"Assistant Director of Agriculture who have opted conditional option and since opted conditional option they have been posted back to Agriculture Department vide Director of Agriculture Proc. No.GES2/83872/2013, Dt.28.06.2016 & 16.11.2016 and the Proc. now set aside the matter is sub-judice. Further course of action on court judgment is being processed."

9. The said list was returned to the third respondent herein by the Agricultural Production Commissioner and Principal Secretary to the Government requesting him to finalise the list at the earliest and send the panel proposal to the Government along with proforma and other records.

10. During the course of hearing, it was brought to our knowledge by the learned senior counsel for the respondents that Tmt.D.Suseela, respondent in W.A. No.2008 of 2018 retired on 30.09.2018 and Thiru.H.S.Siddagangaiah, respondent in W.A. No.2009 of 2018 retired from service on 30.06.2018. Tmt.P.Premavathi, respondent in W.A. No.2010 of 2018 was promoted as Deputy Director pending disposal of the writ appeal and she is due to retire on 31.05.2022.

11. In such circumstances of the matter, we do not find any defect or infirmity in the common order of the learned single Judge and the same deserves to be confirmed. Accordingly, the same is confirmed.

12. In the result, the writ appeals are dismissed. However, no order as to costs. Consequently, the connected civil miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Asr



To

1.The Secretary,
Government of Tamil Nadu,
Agriculture Department,
Fort St. George, Chennai - 600 009.

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

3.Director of Horticulture and Plantation Crops,
Chepauk,
Chennai - 600 005.

+1cc to Government Pleader Sr No.33287

W.A. Nos.2008 to 2010 of 2018 and
C.M.P. Nos.15926 to 15930 of 2018

RLD (CO)
PR (03/09/2021)