



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2021

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THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA
and
THE HONOURABLE Mr. JUSTICE KRISHNAN RAMASAMY

W.A.No.1836 of 2021 and C.M.P. No.11609 of 2021 and
Caveat Nos.2370, 2386 to 2390, 2390, 2392 and 2393 of 2021

1. The Agricultural Production Commissioner/
The Principal Secretary
Agriculture Department
Secretariat, Chennai
2. The Director of Agriculture
Office of the Director of Agriculture
Chepauk, Chennai - 5
3. The Joint Director of Agriculture
Office of the JDA
Coimbatore - 13

... Appellants

Vs.

- 1.G.Muruganandham
- 2.P.Venkatachalam
- 3.M.Jayaraman
- 4.C.Udhayasuriyan
- 5.J.Shaik Ameer
- 6.T.Eswaran
- 7.M.V.Chandran
- 8.A.Galeel
- 9.S.Shanthi
- 10.M.Saravanakumar
- 11.P.Dhandapani

... Respondents

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 23.11.2020 passed in W.P. No.7144 of 2014.

Prayer in W.P. No.7144 of 2014: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari Mandamus, call for the entire records connected with proceeding of the 3rd respondent in Lr.No.A4/2443/2013 dated 22.05.2013, quash the same,



consequently, direct the respondents herein to fix pay band and grand pay (i.e. the pay band of 7440-20200 +2400) for the petitioners (Assistant Agriculture Officers) on par with the Assistant Agriculture Officers who were recruited in the same notification, being published by the Directorate of Employment dated 26.08.2008.

For Appellants : Mr.R.Neelakandan
State Government Counsel

For Respondents : Mr.T.Arul for R11
Mr.K.Thilageswaran for R10

JUDGMENT

(Delivered by PUSHPA SATHYANARAYANA, J.)

This intra-court appeal is filed by the Government against the order dated 23.11.2020 passed in the writ petition, which relates to the regularisation of the Assistant Agricultural Officers and fixation of their seniority.

2. A bunch of writ petitioners, filed W.P. No.7144 of 2014 seeking relief to fix the pay band for the petitioners on par with other Assistant Agricultural Officers, who were recruited by the same Notification dated 26.08.2008.

3. The writ petitioners are all Diploma Holders in Agricultural course and are eligible for the appointment of Assistant Agricultural Officer. In view of the abolition of the post of Field Administrative Officer and its upgradation as Assistant Agricultural Officer, the recruitment of Assistant Agricultural Officer, was suspended for a while. The State Government also had banned all new recruitments between the years 2001 and 2006.

4. After a long wait, a recruitment Notification was issued on 26.08.2008 in which 1707 vacancies of Assistant Agricultural Officers were called for through employment seniority and interview. The age limit for BC/FC candidates was 40 years and for SC/ST candidates was 45. Though the writ petitioners were sponsored by the Directorate of Employment and Training, due to the fixation of the age, they were not called for the interview. They filed W.P. No.8297/2008, in which 93 vacancies were directed to be reserved by an interim order on 12.01.2009. The writ petition was allowed on 19.04.2010, directing the appellants herein to issue call letters, without fixing the upper age limit. Accordingly, the writ petitioners were called for an interview and the appointment letters were issued to them in the month of July 2010.



5. The basic pay for Assistant Agricultural Officer was fixed as Rs.5,200 - 20,200 + Rs.2,400/- as grade pay. Later by G.O. Ms. No.258 Finance (Pay Cell) Department dated 26.08.2010, it was altered as Rs.5,200 - 20,200 + Rs.2,800/-. It is stated that those Agricultural Officers, who were appointed by the same Notification in the month of June 2009, were originally fixed as 4000-100-6000 and the same was revised after the VI Pay Commission. Unfortunately the said pay revision was not extended to the writ petitioners herein, who were also appointed by the same Notification by the same employment seniority, but only in the year 2010 in view of the writ petition. Various representations were given to the authorities in this regard. By the impugned order dated 22.05.2013 which was challenged in the writ petition, the appellants had rejected the claim of the petitioners stating that their appointments were made after 01.06.2009 and the other Assistant Agricultural Officers, who got higher pay band, were appointed prior to 01.06.2009. As the qualification, seniority, notification, mode of appointment, posting, etc. are one and the same for the petitioners as well as those who were appointed prior to 01.06.2009, the petitioners also wanted the same pay scale. The only difference was that the writ petitioners had to get their appointments by virtue of the order of the court, which can be stated as administrative delay. However, the learned counsel for the appellants/authorities contended that the petitioners were selected only pursuant to the order in W.P. No.8297 of 2008 dated 19.04.2010. Therefore, they cannot claim that they were all appointed prior to 01.06.2009. As the petitioners were appointed only prior to the year 2010, there was no violation of Government Rules and prayed for allowing the appeal.

6. The learned single Judge, who heard the matter, based on the order passed in an identical issue, which was considered by this court in W.P. Nos.15378 to 15383 of 2013 dated 03.10.2019 in P.Kalimuthu and others vs. State of Tamil Nadu and others, allowed the writ petition. In the said order, the facts were identical where there was a delay due to administrative reasons, the employees cannot be deprived of the benefits. When similarly placed Government servants were given the benefit of G.O. Ms. No.340 Finance (Pay Cell) Department dated 26.08.2010, it was held that the writ petitioners therein were also entitled to for the same benefit. In this regard, it is worthwhile to advert to paragraph No.4 of the G.O. Ms. No.340, which reads thus:

"4) The Government has carefully examined the above recommendations of the One Man Commission and decided to rectify the anomaly as pointed out by the One Man Commission. Accordingly, the Government direct that in exercise of the powers conferred under Rule-13 of the Tamil Nadu Revised Scales of



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Pay Rules, 2009 relax the Rule-9 of the Tamil Nadu Revised Scales of Pay Rules, 2009 in favour of the incumbents recruited as Junior Assistants from among the Contract Assistants/Agricultural Officers and any other similar categories of posts recruited by the Tamil Nadu Public Service Commission in the same batch prior to 1.6.2009 and joined/appointed on a subsequent date on or after 1.6.2009 due to administrative reasons duly allowing the fitment benefit to the individual employees concerned as a special case. However, Government direct that the above fixation benefit shall be given notional effect from the date of appointment of the individual employees concerned with monetary benefit from 1.8.2010."

7. As per the above Government Order, the benefits was extended to all the categories of posts recruited by the Tamil Nadu Public Service Commission prior to 01.06.2009 and joined on a subsequent date on or after 01.06.2009 due to administrative reasons. When the above Government Order categorically provides for extending the benefits of the pay band even for those who were appointed after the cut-off date, namely 01.06.2009, the administrative reasons due to which the delay had occurred cannot be put against the writ petitioners. The facts of the present case also would go to show that it was not the fault of the petitioners in joining the post belatedly, but it was due to the pendency of the case and the age limit. As there was no recruitment for more than 18 years for the post of Assistant Agricultural Officers, the petitioners by the time they had applied, had crossed the age of 40. They would get the orders of appointment issued only in 2010. They should also be extended the same benefit as of the Assistant Agricultural Officers who were recruited, based on the same notification.

8. It was also pointed out by the learned counsel for the respondents that the Director of Agriculture vide proceedings dated 11.01.2021 made in FSE1/88389/2013, passed the following order:

" Consequent to the above order of the Hon'ble Madurai Bench of High Court, Government directed in the Government Order sixth read above and subsequent amendment in Government Order 7th read above extended the benefits of G.O. Ms. No.340 Finance (Pay Cell) Department, dated 26.08.2010 to the petitioners/individuals on par with the batch-mates who had joined prior to 01.06.2009 and directed the Director of Agriculture to re-fix the pay of the individuals/petitioners' concerned by issuing the separate office proceedings.



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As powers conferred in the Government Order 6th read, the pay fixing authorities concerned are directed to re-fix the pay of the Assistant Agricultural Officers indicated in the Annexure (70 persons) to this orders by allowing the 1.86 fitment ($4000 \times 1.86 = 7440$) notionally from the date of joining, with monetary benefit from 01.08.2010."

9. When the Government itself has already extended the benefits of G.O. Ms. No.340 Finance (Pay Cell) Department dated 26.08.2010 to the individuals, on par with their batch-mates, who were joined prior to 01.06.2009, the learned single Judge had followed the same and rightly allowed the writ petition, which requires no interference.

10. Accordingly, the writ appeal is dismissed. However, there is no order as to costs. Consequently, the connected civil miscellaneous petition and the caveat petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Asr

To

1. The Agricultural Production Commissioner/
The Principal Secretary
Agriculture Department
Secretariat, Chennai

2. The Director of Agriculture
Office of the Director of Agriculture
Chepauk, Chennai - 5

3. The Joint Director of Agriculture
Office of the JDA
Coimbatore - 13

+2 CC to Mr.T.Arul, Advocate, Sr.No. 37967.

+1 CC to Mr.K.Thilageswaran, Advocate, Sr.No. 38120.

+1 CC to The Government Pleader, Sr.No. 38790.

W.A.No.1836 of 2021 and
C.M.P. No.11609 of 2021

GSM(CO)

LS(31/08/2021)