



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE **M.M. SUNDRESH**

AND

THE HONOURABLE MRS. JUSTICE **S. ANANTHI**

W.A. (MD) Nos. 48 & 49 of 2019

A. Balakrishnan

: Appellant in both WAs

Vs.

1. State of Tamil Nadu,
Rep. by its Secretary,
Department of Agriculture,
Fort St. George,
Chennai - 09.

2. The Director of Agriculture,
O/o. Director of Agriculture,
Chepauk,
Chennai.

: Respondents in both Was

COMMON PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent as against the common order dated 13.04.2018 made in W.P. (MD) Nos. 7400 of 2010 & 1275 of 2011.

For Appellant : M/s. S. Louis

For Respondents : Mr. K. P. Krishnadoss,
Special Government Pleader in both WAs

COMMON JUDGMENT

(Judgment of the Court was delivered by **M.M. SUNDRESH, J.**)

The appellant before us in both the appeals is one and the same. These appeals have been preferred against the dismissal of the writ petitions seeking a writ of mandamus to award marks for the recruitment to the post of Assistant Agricultural Officer for the year 2009 and 2011, respectively.

2. On an earlier occasion, a Division Bench of this Court in W.P. (MD) No. 5655 of 2009, etc., batch, dated 11.02.2010, was pleased to uphold the process of selection. Of the batch of writ petitions, W.P. (MD) No. 1920 of 2009 was filed by the appellant herein. A finding



has been given by the Division Bench that the selection process is fair.

3. Once again, the appellant has filed the present writ petitions alleging that he has not been awarded marks correctly, as per the procedure, for the recruitment to the post of Assistant Agricultural Officer for the year 2009 and 2011, respectively. The learned Single Judge has dismissed the said writ petitions and therefore, the present appeals came to be filed.

4. The learned Counsel appearing for the appellants submitted that the learned Single Judge has wrongly dismissed the writ petitions, as the issue is with respect to the non-awarding of marks to the appellant. The order passed on the earlier occasion by the Division Bench has got no bearing to the present case.

5. The learned Special Government Pleader appearing for the respondents submitted that the appellant did not perform well in the interview. Thus, he was not given the posting, after having found him ineligible, as against the others, who were selected. The learned Special Government Pleader would further submit that the appellant ought to have raised all the pleas even in the earlier writ petition itself and therefore, prays for dismissal.

6. We do not find any merit in the present appeals. The Division Bench has already held that the selection was conducted in a fair manner. The following is the performance of the appellant in the interview process, as could be seen in the counter affidavit filed by the respondents:

W.A. (MD) No. 48 of 2019:

"11. It is submitted that in the recruitment process, the candidates were selected based on their academic marks, employment seniority and performance in the interview process following reservation and communal rotation. The additional qualification and experience, if any, was also considered. However, the appellant herein was secured only 33 marks in the selection process. According to the marks obtained by the appellant, he was not reached the zone of selection in BCO communal category, the appellant belongs to. Moreover, the candidates, who were selected in the BCO communal category, have got higher marks than the appellant.

12. It is submitted that all 1,707 candidates selected based on their marks obtained in the process of recruitment and communal rotation also taken into account. Hence the question of awarding two or three marks to the appellant and appoint him as Assistant Agricultural Officer is untenable and unaccepted.

13. It is submitted that moreover the entire process of selection came under the purview of Tamil Nadu Public Service Commission by G.O.Ms.No.31, Agriculture (AA4) Department, dated 11.02.2014. The entire process of selection conducted during the



year 2009 for the post of Assistant Agricultural Officer is accomplished outright. It is also submitted that Appellant has liberty to appear in the selection process conducted by the Tamil Nadu Public Service Commission for vacancies arises.

14. It is submitted that the appellant herein obtained only 33 marks by which he was not reached the zone of selection in the communal category BCO. In the above recruitment process, he obtained 7 marks out of 10 marks for the academic qualification, 11 marks out of 25 marks for technical caliber and 15 marks out of 15 marks for employment seniority. The marks awarded for technical caliber inclusive of considering higher qualification and experience, if any.

...

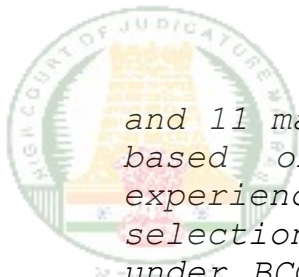
17. It is submitted that the petitioner's allegation is that his application under Right to Information Act, 2005 was not properly responded by the department is not correct, if the petitioner was aggrieved by the same he had other appellate remedies. In the recruitment conducted during the year 2009, as agreed by the petitioner, he was awarded 15 marks for his employment seniority out of 15 marks fixed, 7 marks awarded for his academic qualification based on his marks scored in diploma and 11 marks awarded for technical caliber nothing but interview based on the performance in the interview and for his experience, extracurricular activities etc. In the above selection, 35 marks fixed as minimum marks for the category come under BCO, the petitioner herein comes under the same category. The petitioner was not selected in the recruitment for the selection of Assistant Agricultural Officer held during the year 2009 due to the fact that he scored only 33 marks against minimum marks fixed for the BCO category is 35."

W.A. (MD) No. 49 of 2019:

"14. It is submitted that the appellant herein obtained only 27 marks by which he was not reached the zone of selection in the communal category BCO. In the above recruitment process, he obtained 7 marks out of 10 marks for the academic qualification. 11 marks out of 25 marks for technical caliber and 15 marks out of 15 marks for employment seniority. The marks awarded for technical caliber inclusive of considering higher qualification and experience, if any.

...

17. It is submitted that the petitioner's allegation that his application under Right to Information Act, 2005 was not properly responded by the department is not correct, if the petitioner was aggrieved by the same, he had other appellate remedies. In the recruitment conducted during the year 2009, as agreed by the petitioner, he was awarded 15 marks for his employment seniority out of 15 marks fixed, 7 marks awarded for his academic qualification based on his marks scored in diploma



and 11 marks awarded for technical caliber nothing but interview based on the performance in the interview and for his experience, extracurricular activities etc. In the above selection, 35 marks fixed as minimum marks for the category come under BCO, the petitioner herein comes under the same category. The petitioner was not selected in the recruitment for the selection of Assistant Agricultural Officer held during the year 2009 as he scored only 33 marks against minimum marks fixed for the BCO category, which is 35.

18. It is submitted that for the selection to the post of Assistant Agricultural Officer, a Committee has been constituted comprising of Additional Directors of Agriculture, Horticulture and Deputy Directors of Agriculture and Assistant Directors of Horticulture. The Committee conducted interview and certificate verification in various centres from 19.01.2011 to 24.01.2011. Subsequently, the omitted candidates have also been interviewed on 28.01.2011 in Trichy at the office of the Joint Director of Agriculture, Trichy. The petitioner herein appeared for interview on 28.01.2009 and 21.01.2011 for the recruitment during the years 2009 and 2011 respectively. In the above two selections, the appellant herein scored lower marks than the last candidate selected in the category BCO. The petitioner scored only 33 marks against the 35 marks scored by the last selected candidate in the year 2009 under BCO category the petitioner belongs to and scored 27 marks against the 37 marks scored by the last selected candidate in BCO category the petitioner belongs to in the year 2011 recruitment."

7. In view of the above, the appeals filed deserve to be rejected. In the absence of any arbitrariness or mala fide involved in the selection process, we are not inclined to grant the relief in favour of the appellant. The Division Bench has already upheld the procedure adopted by the respondents. The appellant ought to have raised all this plea at the earlier point of time itself. Having challenged the very process, the appellant cannot choose to file subsequent writ petitions, *inter alia*, alleging that the marks are not awarded properly. Even on merits, we do not find any reason to interfere with the order of the learned Single Judge, as there is nothing to hold that the appellant has been awarded marks wrongly.

In such view of the matter, both the writ appeals are dismissed. No costs.

Sd/-

Assistant Registrar(AD-I)

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Sub Assistant Registrar(CS)



1. The Secretary to Government,
State of Tamil Nadu,
Department of Agriculture,
Fort St. George,
Chennai - 09.

2. The Director of Agriculture,
O/o. Director of Agriculture,
Chepauk, Chennai.

+1 CC to M/s. SPL GP (SR-5667[F] dated 17/02/2021)

+1 CC to M/s. S. LOUIS, Advocate (SR-5791[F] dated 17/02/2021)

W.A. (MD) Nos. 48 & 49 of 2019
16.02.2021

sss (CO)
TR(25.02.2021) 5P 5C