



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.16948 of 2013

A.Anandakumar

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary,
Handlooms, Weaving,
Textiles and Handicrafts (G1) Department,
Secretariat,
Chennai - 600009.

2.The Director of Sericulture,
Salem - 636001.

3.The Assistant Director of Sericulture,
Hosur.

4.M.Gopalan
Junior Inspector of Sericulture,
O/o The Assistant Director of Sericulture,
Salem.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of 2nd respondent in his proceedings in R.C.No.5499/E2/2013-2 dated 13.06.2013 and the consequential panel released by 2nd respondent in his order dated R.C.No.5499/E2/2013-1 dated 13.06.2013 and quash the same insofar as the petitioner concerned and consequently, direct the respondents to promote the petitioner by placing him in Serial No.523, below the name of M.Duraisamy in Serial No.501, Office of the Assistant Director of Sericulture, Pennagaram and above the name of M.Gopalan in Serial No.530, O/o. Assistant Director of Sericulture, Salem by taking into account the Seniority of the petitioner as 523 as per the list published by the 2nd respondent in the year of 2011, with all monetary and all other service benefits.

For Petitioner : Mr.V.S.Jagedeesan

For Respondents: Mr.P.Ganesan [R1 to R3]
Government Advocate



ORDER

The petitioner's services under the second respondent herein, was regularized with effect from 02.02.1981. He had attained the age of superannuation on 31.08.2013. Accordingly, he was permitted to retire from service as a Junior Inspector of Sericulture. The petitioner is now aggrieved against the non-inclusion of his name in the promotional panel of Assistant Inspector of Sericulture for the year 2013-14.

2. The learned Government Advocate opposes by placing reliance on the counter affidavit and submitting that as per Rule 12A(b) of the Tamil Nadu State and Subordinate Services Rule, the petitioner should have passed the second language Tamil test within a period of two years from the date of joining and since he had passed this test only in July 1985, his name was not included in the panel year 2013-14.

3. Rule 12A(b) of the Tamil Nadu State and Subordinate Service Rule reads as under:-

"12-A. Linguistic qualification - (b) Every such candidate as is referred to in the proviso to sub-rule (a), shall, if selected and appointed on or after 9th February, 1996, pass the Second Class Language Test in Tamil conducted by the Tamil Nadu Public Service Commission, or pass the language Test in Tamil referred to in rule 12-B (i) conducted by the appointing authority or pass the oral 12-B (ii) conducted by the appointing authority, as the case may be within a period of two years from the date of his appointment. If he fails to pass the said Language Test within the said period of two years, he shall be discharged from service."

4. The aforesaid Rule was substituted through G.O.Ms.No.89 P & AR Department with effect from 09.02.1996. The Rule says that the candidates who are appointed on or after 09.02.1996, are required to pass the language test in Tamil within a period of two years from the date of appointment. Admittedly, the petitioner herein, had joined the services prior to the cut-off date in the aforesaid Rule, (i.e.,) on 02.02.1981 and therefore, this stipulation for passing the second language Tamil test would not be applicable to the petitioner herein.

5. While that being so, there is no justification on the part of the respondents in having omitted his name in the promotional panel dated 13.06.2013 for the year 2013-14 for the post of Assistant Inspector of Sericulture. Since this action of the respondents is opposed to Rule 12A(b), it is deemed to be



illegal and consequently, the petitioner would be entitled for notional promotion from the date on which his immediate Junior was promoted in the panel dated 13.06.2013.

6. Accordingly, this Writ Petition stands allowed and the proceedings dated 13.06.2013 is quashed. Consequently, there shall be a direction to the first and second respondents herein, to pass appropriate orders, granting notional promotion to the petitioner to the post of Assistant Inspector of Sericulture by inclusion of his name in the promotional panel for the year 2013-14 dated 13.06.2013, below his immediate Senior and disburse all the monetary benefits arising out of such notional promotion. The respondents 1 and 2 shall endeavor to pass such orders and disburse the monetary benefits including the pensionary benefits within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

- 1.The Secretary,
State of Tamil Nadu
Handlooms, Weaving, Textiles and Handicrafts (G1) Department,
Secretariat, Chennai - 600009.
- 2.The Director of Sericulture,
Salem - 636001.
- 3.The Assistant Director of Sericulture,
Hosur.
4. The Junior Inspector of Sericulture,
O/o The Assistant Director of Sericulture,
Salem.

+1cc to Government Pleader SR.No.15477

W.P.No.16948 of 2013

MT(CO)
GMY(31/03/2022)