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W.P.No.42339 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.42339 of 2016

S.Rajkumar

...Petitioner

Vs.

1.The Chief Engineer (Agricultural Engineering)
Nandanam, Chennai – 600 035.

2.The Assistant Executive Engineer,
(Agricultural Engineering)
Thirukoilur, Villupuram District.

Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent issued in Se.Mu.No. Me.Pa.2/42327/2015 dated 23-12-2015 and quash the same and direct the respondent to retain the petitioner in the post of Junior Engineer (Agricultural Engineering) and grant him all consequential benefits.

For Petitioner

: Mr.P.Manoj Kumar

For Respondents

: Mr.E.Sundaram

Government Advocate for R1 & R2



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ORDER

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The order of reversion dated 23.12.2015 is sought to be quashed in the present writ petition.

2.The petitioner is working as a Junior Engineer (Agricultural Engineering). He was initially appointed as Assistant Soil Conservation Officer on 08.05.1986 and promoted as Junior Engineer on 16.11.2007. The services of the writ petitioner was regularized in the post of Junior Engineer with effect from 16.11.2007. The petitioner states that he should pass the following tests within a period of five years from the date of regularization of services in post of Junior Engineer:

- i. PWD Accounts Test for PWD Officers and subordinates –
Part I
- ii. PWD Accounts Test for PWD Officers and subordinates –
Part II
- iii. Agricultural Department Departmental Test for Technical
Officers
- iv. District Office Manual Test

3.The petitioner states that he had written the Agricultural Department



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Departmental Test for Technical Officers and PWD Accounts Test for PWD

Officers and subordinates – Part I conducted on 30.05.2016 and the results are awaited. However, the petitioner was not able to write the PWD Accounts Test for PWD Officers and subordinates – Part II conducted on 30.05.2016 since the said test and the Agricultural Department Departmental Test for Technical Officers were conducted on the same day and at the same time. The period of five years from date of promotion of the petitioner as Junior Engineer expired on 16.11.2012. Five years period from the date of issue of order of regularization expired on 31.05.2013.

4.However, the Chief Engineer (Agricultural Engineering) issued the impugned order dated 23.12.2015 reverting the petitioner from the post of Junior Engineer to the post of Assistant Soil Conservation Officer on the ground that the petitioner did not pass the Agricultural Department Departmental Test for Technical Officers and PWD Accounts Test for PWD Officers and subordinates – Part I and Part II within a period of five years from the date of joining duty as Junior Engineer.

5.The learned counsel for the petitioner states that no show cause notice was



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issued to the writ petitioner calling upon him to submit his explanation. Thus, the order impugned is liable to be set aside. The petitioner participated in the examination however not cleared during the relevant point of time and no further opportunity was granted to the writ petitioner and on that ground also the impugned order is to be set aside.

6.The learned Government Advocate appearing on behalf of the respondents objected the said contention by stating that the post of Junior Engineer (Agricultural Engineering) in Agricultural Engineering Department is governed by the Special Rules for the Tamil Nadu Agriculture Subordinate Service issued in G.O.Ms.No.1760, Agriculture Department, dated 10.06.1970. Rule 9(a)(ii) of the Special Rules states as follows:

8. I submit that the post of Junior Engineer (Agricultural Engineering) in Agricultural Engineering Department is governed by the Special Rules for the Tamil Nadu Agriculture Subordinate Service issued in G.O.Ms.No.1760, Agriculture Department, dated 10.6.1970. The Rule 9(a)(ii) of the Special Rules states as follows:

“Agricultural Engineering Supervisors,



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appointed either by direct recruitment or by promotion, or by transfer from other service, shall within the period of five years of their service, pass the following tests, failing which their services shall be terminated or reverted as the case may be:

- i. Accounts Test for Public Works Department officers; [Part.1 & 2]*
- ii. Agricultural Departmental Test; and*
- iii. District Office Manual Test"*

7.In accordance to the above rule, the Petitioner who joined as Junior Engineer (Agricultural Engineering) on 16.11.2007 has to pass all the tests stated above within a period of five years i.e.. within 16.11.2012. But, he has passed the District Office Manual in December 2009 but not passed the other two tests. Therefore, he has to be reverted to the lower post i.e. as Assistant Soil Conservation officer since he has not passed the prescribed tests within a period of five years. As he has not passed the prescribed tests within the stipulated period, the First Respondent vide Proceedings No. EE2/42327/2015, dated 23.12.2015 has reverted him as Assistant Soil Conservation Officer and allotted to the Executive Engineer (Agricultural Engineering), Villupuram for posting him as Assistant Soil



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Conservation Officer. The Petitioner has challenged the proceedings of the First Respondent, which has been made as per the aforesaid rule, in the present Writ Petition. Before reversion, the petitioner has been given notice vide letter dated A/999/2014, dated 14.9.2015 by the Second Respondent and also he replied on 4.11.2015.

8.The post of Junior Engineer (Agricultural Engineering) in Agricultural Engineering Department is governed by the Special Rules for the Tamil Nadu Agriculture Subordinate Service issued in G.O.Ms.No.1760, Agriculture Department, dated 10.6.1970. Only as per the Rule 9 (a) (ii) of this Special Rules, the reversion order stated previously has to be made. But, the Petitioner's interpretation that in G.O.Ms.No.533, Agriculture (AA.3) Department, dated 14.12.2004 no tests were prescribed is not correct. Because this is a G.O. wherein some new categories viz., Agricultural Engineering Foreman, Assistant Soil Conservation Officer, Junior Draughting Officer, Drill Supervisor, Inspector of Hand Boring Sets Grade-1 and Compressor Driver were brought in as feeder categories for promotion to the post of Junior Engineer (Agricultural Engineering) in the rotation of 1:4:1:1:1:1. Subsequently, in the G.O. Ms. No. 309, Agriculture



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(AA3) Department, dated 19.10.2016, the said rotation of 4 given to Assistant Soil Conservation Officer was amended and a rotation of 1 was provided. Further, after promotion to the post of Junior Engineer (Agricultural Engineering) as said in the G.O.Ms.No.1760, Agriculture Department, dated 10.6.1970, i.e. in the special rules which governs the post of Junior Engineer (Agricultural Engineering) the individual has to pass the prescribed tests. Therefore, G.O.Ms.No.533, Agricultural Department, dated 14.12.2004 has to be read as a part and parcel of the Special Rules issued in G.O.Ms.No.1760, Agriculture Department, dated 10.6.1970 and not in isolation.

9.Regarding the ground of non-issuance of show cause notice as raised by the petitioner, the respondents have stated in their counter affidavit that the petitioner has been given notice vide letter A/999/2014, dated 14.09.2015 by the 2nd respondent and also the petitioner replied on 04.11.2015. Even presuming that no such show cause notice was issued, the order of regularization unambiguously stipulates the condition that the petitioner must pass within a period of five years and in the event of not passing the examination within a period of five years, he will be reverted back. Thus, the condition stipulated in the order of regularization



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itself is a notice given in advance that the petitioner must pass the examination within a period of five years and in the event of not passing, he will be reverted back to the lower post. Thus, any further notice will become an empty formality as the petitioner was very much aware of the fact that he must pass the examination within a period of five years and therefore, the contention raised in this regard deserves no merits consideration.

10. In view of the facts and circumstances, this Court do not find any infirmity in respect of the order passed by the respondents and therefore, the writ petition stands dismissed. No Costs.

31.10.2022

Index : Yes
Internet : Yes
Speaking order : Yes
ssr



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- To
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 - 2.The Assistant Executive Engineer,
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Thirukoilur, Villupuram District.



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S.M.SUBRAMANIAM, J.

SSR

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