



W.P(MD)No.22057 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22057 of 2022

M.Vijayan

... Petitioner

Vs.

1.The Agricultural Production Commissioner and
Principal Secretary to Government,
Agriculture Department,
Secretariat,
Chennai-600 009.

2.The Director of Agriculture,
Ezhilagam,
Chepauk, Chennai-600 005.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the first respondent i.e., the Agricultural Production Commissioner and Principal Secretary to Government, Agriculture Department, Chennai to pass appropriate orders on the petitioner's representation dated 25.09.2021 regarding inclusion of the petitioner's name in the approved list of Assistant Director of Agriculture of the year 2007-2008 and notionally promote him and refix the petitioner's pay in the cadre of Deputy Director of Agriculture and to send revised pension proposals to the Accountant General, Chennai, within a specified time frame.



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For Petitioner : Mr.S.Visvalingam
For R1 & R2 : Mr.R.Sureshkumar
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner was last serving as Deputy Director of Agriculture in Sivagangai. He reached the age of superannuation on 03.06.2019 and he was allowed to retire vide G.O.(Rt).No.236, Agriculture (AA1) Department, dated 28.06.2019.

3. The grievance of the petitioner is that his name should have been included in the approved list of Assistant Director of Agriculture for the year 2007-08 itself. He seeks notional promotion and also consequent re-fixation of his pay in the cadre of Deputy Director of Agriculture. For a moment, I am not on the merits of the petitioner's case. The petitioner had given a representation dated 25.09.2021. The copies of the postal receipts have also been enclosed at Page No.43 of the typed set of papers. Since no order was passed, the petitioner filed this writ petition for directing the first respondent to pass appropriate order on the said representation.



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3. The writ petition was admitted on 19.09.2022. On the said date, I passed the following order:-

Mr.R.Suresh Kumar, learned Additional Government Pleader takes notice for the respondents. Call on 21.11.2022. On the said date, the learned Additional Government Pleader will inform the Court as to the nature of disposal given to the petition mentioned representation by the first respondent.

In fact, I remember distinctly directing that when the writ petition is taken up for disposal, he should produce copy of the order considering the petitioner's request one way or other. The writ petition has been in the list for quite some time and reached only today. When the matter was taken up for hearing, the learned Additional Government Pleader produced the communication sent by the Deputy Director of Agriculture, Sivagangai seeking time to file counter affidavit. I fail to understand as to why counter affidavit has to be filed in this case.

4. All that the petitioner seeks is only a passing of an order on his representation. It is not as if the petitioner rushed to this Court immediately after submitting the representation. He came to this Court after a gap of more than 11 months. The Court adjourned the case by two months so as to enable the first respondent to pass appropriate order. The petitioner may or may not have a sustainable case on merits. But when representation setting forth



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certain demand is submitted, the authority must give disposal one way or other within a reasonable time. 11 months time was certainly sufficient for the first respondent to pass an order. It is surprising that even though this Court had given a direction on 19.09.2022, but the first respondent has not even respected the order passed by this Court on 19.09.2022. I had formulated the words in such way so as to make it clear that the only expectation of this Court is consideration of the petitioner's request one way or other and nothing more.

5. I must record my displeasure at the request made by the respondent that they want further time to file counter affidavit. Even while directing the first respondent to pass final order on the petition mentioned representation on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order, I imposed cost of Rs.5,000/- on the first respondent. However, at the request of Shri.R.Baskaran, Additional Advocate General, I deleted the levy of cost.

6. I wanted to know if the learned Additional Government Pleader had discharged his duties in communicating to the department. It is seen that the learned Additional Government Pleader has sent a letter to the respondent on



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20.09.2022 itself. It is unfortunate that the communication sent by the law officers has not been properly dealt with. Instead, a mechanical request for filing counter affidavit has been made. It is not necessary that in all cases, counter affidavit should be filed. The first respondent shall bear these observations in mind for future guidance. I hope the petitioner will not be made to file contempt petition for non-compliance of the direction now given.

7. The Writ Petition is disposed of with the aforesaid direction. No costs.

28.11.2022

Index : Yes / No
Internet : Yes/ No
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To

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Principal Secretary to Government,
Agriculture Department,
Secretariat,
Chennai-600 009.

2.The Director of Agriculture,
Ezhilagam,
Chepauk, Chennai-600 005.



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G.R.SWAMINATHAN, J.

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