



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:04.04.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.25436 of 2019 and

WMP (MD) Nos.22000 and 22002 of 2019

S.Jeyakrishnan

... Petitioner

Vs.

1.The Agriculture Production Commissioner and
Principal Secretary to the Government
Fort St. George, Chennai.

2.The Commissioner of Agriculture
Office of the Commissionerates of Agriculture
Agricultural Extension Wing,
Chepauk
Chennai.

3.The Joint Director of Agriculture,
Office of the Joint Director of the Agriculture,
Madurai 2

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari to call for the records relating to the impugned order passed by the 1st respondent in his proceedings impugned G.O.Ms.No.87 on Adhoc Rules dated 02.05.2019 and consequently directing the respondents to give promotions to the petitioner from the post of production officer to area manager.

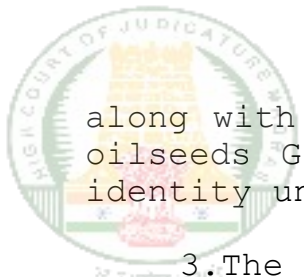
For Petitioner : Mr.R.Ramanujam

For Respondents : Mr.A.K.Manikkam
Special Government Pleader

ORDER

The Adhoc Rules issued by the first respondent in G.O.Ms.No.87 Agriculture Department dated 02.05.2019 is under challenge in the present writ petition.

2.The Government framed adhoc rules for the posts absorbed



along with the incumbents from the erstwhile Tamil Nadu Cooperative oilseeds Growers Federation Limited and functioning as a separate identity under the control of the Director of Agriculture.

3. The petitioner was appointed as Production Officer in the Tamil Nadu Government Oil Seeds Growers Federation Limited on 16.01.1986. The Federation became sick and liquidated and subsequently the employees in the federation were absorbed by the Government in the agriculture department as a separate wing.

4. The grievance of the writ petitioner is that he was waiting for promotion to the post of Area Manager, while he was in service. During the relevant point of time, adhoc rules were not framed and the writ petitioner filed a writ petition to consider his case. The Court also directed to frame adhoc rules and by the time, the petitioner attained the age of superannuation.

5. The learned Special Government Pleader appearing on behalf of the respondents made a submission that the petitioner is not qualified to promotion to the post of Area manager, as he has not passed the requisite departmental examination. Further, the writ petitioner was allowed to retire from service on 31.07.2018. The impugned Government order was passed on 02.05.2019. Thus, the petitioner cannot seek any promotion as he was found not eligible.

6. The learned counsel for the petitioner by way of reply made a submission that no such departmental examination is required and further the petitioner is an agriculture graduate.

7. Promotion per se cannot be claimed as a matter of right. Consideration for promotion is right of an employee. If the rules are in force and administrative decision is taken by the department to fill up the promotional post of Area Manager, then alone the eligible employees are to be considered. In the present case, the case of the petitioner is that he was not given promotion, when he was in service. The writ petition itself is filed at the age of 60 years and the petitioner even before filing of the writ petition was allowed to retire from service on 31.07.2018. This apart, the Federation was now under the control of the Directorate of Agriculture as a separate wing, when the adhoc rules are framed. The petitioner is not claiming promotion on the ground that his juniors were promoted or his name was overlooked. The Hon'ble Supreme Court of India in the case of ***Union of India and Another-vs-Manpreet Singh Poonam*** reported in ***CDJ 2022 SC 291*** reiterated that there is no vested or accrued right for promotion to a post in the absence of any vacancies. However, as per the Constitution Bench judgment in the case of Ajith Singh, consideration is right of an employee. In the present case, the petitioner is claiming promotion as a matter of right, which is untenable. That apart, the petitioner is already allowed to retire from service and after



retirement, the adhoc rules were issued. Under those circumstances, the relief as such sought for cannot be granted. Accordingly, the writ petition is dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

RR

To

- 1.The Agriculture Production Commissioner and
Principal Secretary to the Government
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+1 CC to M/s.SPL.GP (SR-16683[F] dated 05/04/2022)

W.P. (MD)No.25436 of 2019

04.04.2022

RD(19.04.2022) 3P 5C