



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.31627 of 2016
and
W.M.P.No.15875 of 2017

M. Muthukumar

.. Petitioner

Vs.

The Principal Secretary / Commissioner,
Department of Horticulture and Plantation Crops,
Chepauk,
Chennai – 600 005.

.. Respondent

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 pursuant to the impugned order passed by the respondent in Lr.No.FSE.1 / 4405 / 2016 dated 23.07.2016 and to quash the same and consequently direct the respondent to absorb the petitioner in the Horticulture Department based on the option exercised by his and to accordingly grant him promotion to the post of Deputy Horticulture Officer based on his seniority with full service and monetary benefits.



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For Petitioner .. Mr. R. Prem Narayan
For Respondent .. Mr. T. K. Saravanan, Govt. Advocate.

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records relating to the impugned order passed by the respondent / the Principal Secretary / Commissioner, Department of Horticulture and Plantation Crops, Chepauk, Chennai, in Letter No.FSE.1/4405/2016 dated 23.07.2016 and to quash the same and to direct the respondent to absorb the petitioner in the Horticulture Department based on the option exercised by him and grant promotion to the post of Deputy Horticulture Officer on the basis of seniority with full service and monetary benefits.

2. In the affidavit filed in support of the writ petition, the petitioner stated that he was working as Assistant Seed Officer under the control of the Director of Agriculture, but posted in the Horticulture Department on Service Lent basis. He joined duty on 11.08.1989. This is a fact, which can be gleaned from the counter affidavit. This is a very relevant fact, since it



would mean that the parent department of the petitioner is only the Agricultural Department. His services were offered on Service Lent basis to the Horticulture Department.

3. The petitioner in his affidavit had further stated that there was bifurcation of the Horticulture Department. He stated about reorganization in G.O.Ms.No.537 Agriculture Department dated 24.12.2007. This bifurcation or re-allotment was within the Department of the Personnel to various department and was challenged in a series of writ petitions before this Court. An order was passed on 19.12.2012. In effect, the orders stipulated that those who had been so employed can give their option to either continue in the Agriculture Department or go over permanently to the Horticulture Department. The petitioner claims that he had given an option to go over to the Horticulture Department. A document in this regard had been enclosed as a further document filed along with the writ petition, but unfortunately, it does not have any date.



4. In the meanwhile, the petitioner's parent department was Agriculture Department, promoted him as Assistant Seed Officer in the year 2012. He very happily took up that promotion and continued to work as Assistant Seed Officer and as a matter of fact, on the date of filing of the writ petition is also working as Assistant Seed Officer.

5. The grievance of the petitioner was that in the parallel department namely, Horticulture Department, the post for Deputy Agriculture Officer fell vacant in the year 2015. The petitioner sought promotion to that particular posts but that was denied, since his parent department was Agriculture Department and according to the respondent he had not formally opted to join Horticulture Department. Whether he had opted or not, the conduct in continuing in the Agriculture Department reflects that he was satisfied with his service there. Let him continue to be in the Agricultural Department. It is an equally satisfying department where his efforts, skill and knowledge would be put to much use.

6. The petitioner had made a representation on 03.03.2016 claiming that he should remain in Horticulture Department and should be promoted as Deputy Horticulture Officer in Horticulture Department.



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7. This has been questioned in the counter affidavit, wherein, it is claimed that the petitioner was posted in the Horticulture Department only on Service Lent basis. He was initially appointed only in the Agriculture Department. Therefore, his statement in the affidavit cannot be taken at its face value.

8. The impugned order came to be passed on 23.07.2016 in Letter No.FSE.1/4405/2016, wherein it had been very specifically stated that the petitioner was a permanent employee of the Agriculture Department and worked in Horticulture Department only on Service Lent basis. This in fact, giving a lien over the service of the petitioner by the Agriculture Department, who can call him back to the Agriculture Department at any time. The petitioner cannot claim about a vacancy in the Horticulture Department. He cannot claim any right of promotion in the Horticulture Department. His services are confined with the rules and regulations of the Agriculture Department.



9. These statements are also reiterated by the learned Government Advocate appearing on behalf of the respondent, who also brought to the notice of this Court to the fact that the petitioner's services were on Service Lent basis. The exercise of option had been very strongly denied and disputed by the respondent. They claim that the petitioner's parent department is only the Agriculture Department and therefore, there is no possibility of the petitioner be deployed or shifting or granting promotion to the sanctioned post in the Horticulture Department.

10. With the above observations, this Writ Petition is dismissed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

18.07.2023

Index:Yes/No
Internet:Yes/No
Neutral Citation:Yes/No
Speaking order: Yes/No
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To
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The Principal Secretary / Commissioner,
Department of Horticulture and Plantation Crops,
Chepauk,
Chennai – 600 005.



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C.V.KARTHIKEYAN,J.

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