



WEB COPY



W.P.No.28990 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.28990 of 2023

M.Thanikodi

...Petitioner

-Vs-

1. The Secretary to Government of Tamil Nadu,
Agricultural Department,
Fort St. George,
Chennai-600 009.
2. The Director,
Agricultural Marketing and Agricultural Business,
Guindy,
Chennai-600 032.
3. Senior Secretary,
Coimbatore Market Committee,
Agricultural Marketing and Agricultural Business,
Coimbatore – 641 045.

...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 and quash the impugned order dated 14.06.2023 sent by the 3rd respondent and also direct the respondents to regularise the petitioner's service from the date of first



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appointment i.e., 12.11.1986 and also direct the respondents to disburse the petitioner's retirement benefits as per the post of Superintendent.

For Petitioner : Ms.S.Suseela Devi

For Respondents : Mrs.V.Yamuna Devi
Special Government Pleader

ORDER

Heard Ms.S.Suseela Devi, learned counsel for the petitioner, and Mrs.V.Yamuna Devi, learned Special Government Pleader for the respondents.

2. The petitioner was originally appointed as Superintendent under the second respondent Department. Thereafter, he was ousted from service on 31.03.1987. Pursuant to the orders passed by this Court in W.P.No.6511 of 1987 dated 01.07.1987, he was again appointed as Junior Assistant through G.O.No.79 Agriculture Department dated 26.03.2010. While serving as Junior Assistant, the petitioner was directly appointed as a Temporary Regulated Market Superintendent in Nilgiri Market Committee through an order dated 19.03.2014. One of the conditions of such appointment was that the ratification of the Government based on Tamil Nadu Agricultural Marketing Subordinate



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Special Rules has to be applied. Thereafter, the petitioner had retired from service on 31.03.2019. When the petitioner had requested for a regularisation of his service from the date of his first appointment and for disbursement of retirement benefits for the post of Superintendent, the same has been rejected through the impugned order dated 14.06.2023.

3. Learned counsel for the petitioner submits that identically placed employees, who were also ousted from service in the year 1986 were taken into service and they were promoted to the post of Superintendent directly without serving as a Supervisor and as such, there is a discrimination on the part of the respondents.

4. Per contra, learned Special Government Pleader placed reliance on Rule 4 of Tamil Nadu Agricultural Marketing Subordinate Service Special Rules and submits that for the purpose of promotion to the post of Market Superintendent, the incumbent ought to have served minimum three years as Supervisor. Since the temporary appointment was directly from Junior Assistant to a Market Superintendent, the same is against the Special Rules and therefore,



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the petitioner cannot seek for the benefits for the pay of Superintendent. The learned Special Government Pleader also submits that pursuant to the temporary appointment of Market Superintendent, the Government had refused to ratify such appointment through an order dated 23.05.2019.

5. A copy of the order has been produced before this Court. In the said order, the rejection is on the ground that the petitioner has not served minimum three years as Supervisor for promotion. When the Government has not ratified the petitioner's temporary appointment as Market Superintendent, the present impugned order cannot be strictly found fault with. However, if the petitioner is of the view that in identical cases, such a ratification has been granted, the option available to the petitioner is to challenge the order of the Government dated 23.05.2019.

6. In view of the above, no interference is required to the present impugned order. However, liberty is granted to the petitioner to challenge the Government Order dated 23.05.2019. There shall also be a direction to the Government to supply a copy of such letter, based on the representation to be



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given by the petitioner, within a period of one week from the date of receipt of such representation.

With the above direction, the writ petition is closed. No costs.

06.11.2023

Index:Yes/No
Internet:Yes/No
sr

To

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M.S.RAMESH,J.



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