



WP.No.13206/2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.08.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.13206/2017 & WMP.No.14213/2017

M.Vedagiri

... Petitioner

Versus

1.The Director of Horticulture & Plantation Crops
Chepauk, Chennai.

2.The Commissioner of Agriculture
Chepauk, Chennai.

3.The Deputy Director of Horticulture
Kancheepuram.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records in pursuant to the impugned order passed by the 1st respondent in Lr.No.FSE.1/893/2017 dated 12.04.2017 and quash the same and consequently direct the respondents to absorb the petitioner in the Horticulture Department based on the option exercised by him 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 Respondents : Mr.U.Baranidharan, AGP

ORDER

- (1) The writ petition has been filed in the nature of a certiorarified mandamus seeking the records relating to the impugned order passed by the 1st respondent, Director of Horticulture and Plantation Crops at Chennai in Letter No.FSE.1/893/2017 dated 12.04.2017 and to quash the same and to direct the respondents to accommodate the petitioner in Horticulture Department based on the option exercised by him and also to grant promotion to the post of Deputy Horticulture Officer, based on his seniority and with all consequential monetary benefits.
- (2) The petitioner herein had been appointed as Field Demonstration Officer in the Department of Agriculture on 03.12.1986. He was then promoted as Assistant Agriculture Officer on 19.07.2004. He was also promoted as Assistant Seed Officer on 30.11.2015. In the interregnum period, the government had issued G.O.Ms.No.537, Agricultural Department, dated 24.12.2007, restructuring the



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Agriculture Department by bifurcating Agriculture, Horticulture and Agricultural Marketing into separate Departments. The petitioner was deployed to the Horticulture Department as Assistant Agriculture Officer. This re-organization of the Agriculture Department was challenged before this Court by filing writ petitions and finally, it was ordered on 19.12.2012 that those who had been deployed in the Horticulture Department, can exercise their option within one month after the expiry of the period of five years as contemplated in G.O.Ms.No.537, whether they would remain in the Horticulture Department to which they had been deployed or go back to their parent Department, namely, Agriculture Department.

- (3) The petitioner had exercised his option to remain in the Horticulture Department and in recognition of that, he was also promoted as Assistant Seed Officer on 30.11.2015 and was posted to the Agriculture Department. It had been stated that he continued to work in the Agriculture Department having accepted the promotion. He then found that in the Horticulture Department, a panel was being prepared for further promotion. He therefore, sought exercise of his



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option to get back to the Horticulture Department. That was denied in the impugned order and questioning that, the present writ petition has been filed.

- (4) A similar issue came up before this Court on 18.07.2023 in WP.No.31627/2016 ***[M.Muthukumar Vs. Principal Secretary / Commissioner, Department of Horticulture and Plantation Crops]***.

The writ petitioner therein who was originally appointed as Assistant Seed Officer in the Agriculture Department, was posted Horticulture Department. He then exercised his option to go over to the Horticulture Department. But the parent department/Agriculture Department had promoted him as Assistant Seed Officer in the year 2012. He took that promotion without any protest and thereafter, the petitioner therein also found, quite similar to the petitioner herein, that promotion opportunities had opened up in Horticulture Department. He then filed an application seeking to go back to the Horticulture Department in accordance with his option exercised earlier. That request was rejected by the impugned order. It had been finally observed as follows:-



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"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."



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- (5) The reasonings therein would also apply to the petitioner herein. The petitioner herein having taken up the promotional aspects in the Agriculture Department, cannot now turn around and go back to the Horticulture Department merely because the promotion aspect had opened up there.
- (6) Learned Additional Government Pleader also asserted the same fact and stated that the petitioner's services were on service lent basis and that the parent Department is only the Agriculture Department and therefore, the petitioner cannot go back to the Horticulture Department.
- (7) The said assertion by the learned Additional Government Pleader is well founded.
- (8) In view of that particular fact, the writ petition stands **dismissed**. No costs. Consequently, connected miscellaneous is closed.

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AP
Internet : Yes



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