



W.P.(MD).No.21883 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.21883 of 2017

and

W.M.P.(MD).Nos.18201 and 18202 of 2017

M.Saravanamuthu

... Petitioner

Vs.

1.The Agricultural Production Commissioner
and the Principal Secretary to Government,
Agriculture (AA8) Department,
St.George Fort,
Chennai – 600 009.

2.The Chief Engineer,
Agricultural Engineering Department,
No.487, Anna Salai,
Nandanam,
Chennai – 35.

3.M.Chandrasekaran,
Assistant Engineer,
O/o. the Assistant Executive Engineer,
(Agricultural Engineering Department),
Aranthangi,
Pudukkottai District.



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4.A.Ashokan,
Assistant Engineer,
O/o. the Executive Engineer,
(Agricultural Engineering Department),
Training Centre, Jail Corner,
Trichy.

5.A.Arul Ganesh,
Assistant Engineer,
O/o. the Assistant Executive Engineer,
(Agricultural Engineering Department),
Virudhachalam,
Cuddalore District.

6.G.Chandrasekar,
Assistant Engineer,
O/o. the Assistant Executive Engineer,
(Agricultural Engineering Department),
Musiri,
Trichy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in his proceedings Se.Mu.Anai.No.MePa1/20292/2017 dated 31.05.2017 promoting the Respondents No.3 to 6 and consequential impugned Letter issued by the second respondent in MePa5/36292/16 dated 13.11.2017 rejecting the claim of the Petitioner for promotion to the post of Assistant Engineer in accordance with Rule 2 of the Special Rule for Tamil Nadu Agricultural Engineering Service and quash the same is illegal and consequently to direct the respondents No.1 and 2 promote the petitioner to the post of Assistant



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Engineer from the date of which the respondents 3 to 6 are promoted to the post of Assistant Engineer.

For Petitioner : Mr.V.P.Rajan

For R-1 and R-2 : Mr.R.Suresh Kumar,
Additional Government Pleader.

For R-3 to R-6 : No Appearance

ORDER

This Writ Petition is filed to quash the proceedings dated 31.05.2017 promoting the Respondents No.3 to 6 and consequential impugned Letter dated 13.11.2017 rejecting the claim of the Petitioner for promotion to the post of Assistant Engineer in accordance with Rule 2 of the Special Rule for Tamil Nadu Agricultural Engineering Service and to direct the respondents No.1 and 2 to promote the petitioner to the post of Assistant Engineer from the date on which the respondents 3 to 6 were promoted to the post of Assistant Engineer.



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2. The petitioner was appointed as Assistant Driller on 01.12.2000 based on his qualification of Diploma in Mechanical Engineering. The said appointment is made through Employment Exchange and thereafter, he was promoted as Assistant Agricultural Engineering Foreman on 09.05.2007. In the meanwhile, the petitioner has completed part time Bachelor of Engineering Degree (Mechanical) in Thiagaraja College of Engineering, Madurai with the permission of the respondents in the year 2007. The petitioner was promoted as Agricultural Engineering Foreman (Supervisor) on 15.09.2011.

3. The contention of the petitioner is that the appointment to the post of Assistant Engineer is being carried out by two methods, one is by direct appointment and another one is recruitment by transfer. The Government issued G.O.Ms.No.582 dated 09.11.1995 for appointing recruitments by transfer to the post of Assistant Engineer from Assistant Soil Conservation Officer, Junior Draughting Officer and Agricultural Engineering Foreman by way of amending the Rule 2 of Special Rule for Tamil Nadu Agricultural Engineering Service. Earlier 2% was given to the Class V category, then the same was increased to the ratio of 91:9 that is 91 Direct Recruitment and 9



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Recruitment by Transfer, by promotion. The seniority list ought to be prepared among the persons working in the category of Assistant Soil Conservation Officer, Junior Draughting Officer and Agricultural Engineering Foreman for promotion to the post of Assistant Engineer based on the date of acquiring B.E., Civil or B.E., Mechanical Degree in accordance with Rule 2 of the Special Rule for Tamil Nadu Agricultural Engineering Service. The second respondent neither issued seniority list nor prepared panel for promotion to the post of Assistant Engineer periodically, but used to prepare panel as and when the vacancy arises.

4. In the present case, all of a sudden without circulating the seniority list, the second respondent promoted the respondents 3 to 6 to the post of Assistant Engineer among the holder of the post of Assistant Soil Conservation Officer, Junior Draughting Officer and Agricultural Engineering Foreman on 31.05.2017. The respondents have prepared the panel on 31.05.2017 and on the same date passed an order of promotion without getting any objections from the eligible candidates and the promoted officers joined the said post on 31.05.2017 itself. The petitioner came to know about the promotion only on 05.07.2017 that his name is found missing in the promotion order.



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5. The contention of the petitioner is that the petitioner has completed B.E. Degree in the year 2007 itself and the respondents 3 to 6 have completed the B.E., degree only in the year 2008 and 2009 respectively. The amended rule clearly states that the seniority and promotion shall be given based on the date of acquiring the degree of Bachelor of Engineering. But the second respondent have violated the said rule by promoting the respondents 3 to 6, who have passed the B.E., degree in the year 2008 and 2009 respectively. Aggrieved over the same, the petitioner is before this Court.

6. The respondents have filed a counter stating that the Rule 2(a) of the Special Rules for the Tamil Nadu Agricultural Engineering Service as amended in G.O.Ms.No.582, Agriculture (AA3) Department, dated 09.11.1995 states the method of appointment to the post of Assistant Engineer (Agricultural Engineering) under Class V, whereby the feeder category is from the post of persons holding the post of Assistant Soil Conservation Officer, Junior Draughting Officer and Agricultural Engineering Foreman. The next condition for consideration is Junior Engineer (Agricultural Engineering) in the Tamil Nadu Agricultural Subordinate Service on acquiring a degree in Engineering or



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a pass in Sections 'A' and 'B' of the AMIE shall be re-designated as Assistant Engineer (Agricultural Engineering) in the Tamil Nadu Agricultural Engineering Service from the date following the last date of examination, notwithstanding the procedures to be followed or appointment by recruitment by transfer. It is further stated in the counter that the petitioner was promoted as Assistant Agricultural Engineering Foreman on 09.05.2007 and he was promoted as Agricultural Engineering Foreman (Supervisor) on 15.09.2011. Since the petitioner is holding the post of Agricultural Engineering Foreman (Supervisor) on 15.09.2011 which is the feeder category to be considered for Assistant Engineer, even though he has completed Engineering course in the year 2007, the petitioner cannot be considered prior to 2011. Therefore, the respondents claim that the petitioner has not acquired sufficient qualification prescribed under the service rule. Hence, the petitioner is not entitled to. Therefore, the respondents prayed to dismiss this Writ Petition.

7. Heard Mr.V.P.Rajan, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondents and perused the records.



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8. The service particulars of the petitioner is essential to decide the issue and the same is extracted hereunder:

Date	Particulars
01.04.2001	Appointed and regularized as Assistant Driller (this is not the feeder category for Assistant Engineer)
19.11.2003	Permission to study part time B.E. degree was given vide Proc.No.HRD.1/65504/2003-1, dated 19.11.2003.
19.08.2007	Last date of sitting for examinations for B.E., (Mech) degree.
09.05.2007	Promoted as Assistant Agricultural Engineering Foreman (this is not the feeder category for Assistant Engineer)
15.07.2011	Promoted as Agricultural Engineering Foreman (this is the feeder category for Assistant Engineer)

9. It is an admitted fact that the petitioner has completed Bachelor of Engineering Degree (Mechanical) in Thiagaraja College of Engineering, Madurai with the permission of the respondents on 19.08.2007. The petitioner was promoted as Assistant Agricultural Engineering Foreman on 09.05.2007. On completion of the said degree on 19.08.2007, the petitioner is entitled to be redesignated as Agricultural Engineering Foreman, as per the proviso under Rule 2(a) of the Special Rules of Tamil Nadu Agricultural Engineering Service. The proviso states by taking Junior Engineer as an example, that on completion



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of B.E., (Mechanical), the Junior Engineer should be redesignated as Assistant Engineer. If the same principle is applied to Assistant Agricultural Engineering Foreman, then the petitioner ought to be designated as Agricultural Engineering Foreman on 09.05.2007 itself. If that is carried out properly, the petitioner will come within the zone of consideration and the petitioner would be entitled to the same. The respondents have not followed the rules properly and has not implemented the rules properly.

10. If the respondent contention is accepted then the proviso to Rule 2(a) would have become redundant. The respondents ought to have read the provisions comprehensively and redesignated the petitioner from Assistant Agricultural Engineering Foreman, then the petitioner ought to be designated as Agricultural Engineering Foreman on 09.05.2007 itself, on the date of completion of Engineering Course. Therefore, this Court is of the considered opinion that the petitioner is entitled to be considered.

11. The respondents had relied on paragraph 12 and 13 of the judgment rendered by the Hon'ble Division Bench of this Court in the case of *M.Kuruvammal Vs The Registrar, Gandhigram Rural Institute (Deemed*



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University), Anna District and others reported in 2010 SCC Online Mad 1215.

The said judgment is applicable to the petitioner rather than supporting the case of the respondents. The petitioner has demonstrated that there is pattern arbitrariness by not following the rules properly and by applying the said dictum laid out in the Writ Appeal, this Court is of the considered opinion that the petitioner is bound to succeed.

12. The respondents further relied on the another judgment in the case of *M.Srikanth Vs V.Rajesh Kanna and others in W.A.(MD).No.1299 of 2018 dated 08.11.2018*, wherein, it has held as "when the Statute says that a particular thing should be done in a particular manner, it shall be done in that manner alone". Again, the above said judgment also is supporting the case of the petitioner. The rule specifically states on completion, the candidate is eligible to be redesignated in the appropriate post. Since the respondents have failed to redesignate the petitioner in the appropriate post, the petitioner cannot lose his valuable right.

13. Therefore, this Court is inclined to quash the impugned order and hence, the impugned order is quashed. The respondents shall grant promotion



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on the date it was conferred to the private respondents. The petitioner was already granted promotion on 16.05.2018 as Assistant and now it shall be granted notionally to the earlier date i.e. 31.05.2017 as granted to the other private respondents. The petitioner is entitled to the consequential benefits. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

14. In view of the above, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

22.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

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