



W.P.(MD) No.8242 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.03.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.8242 of 2021

S.Sivagami

... Petitioner

Vs.

1. The Agricultural Production
Commissioner and
Principal, Secretary to Government,
Agriculture Department, Secretariat, Chennai-9

2 The Director of Agriculture
Chepauk, Chennai-600 005

3 The Deputy Director of Agriculture (Agri Business),
Regulated Market Complex,
Nanjikottai Road, Thanjavur-613 006

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for records of the 1st respondent i.e. the agricultural production commissioner and Principal Secretary to Government Agricultural Department Chennai in Government letter No.21260/AI(2)/2020-4 dt 23.03.2021 and communicated by the Deputy Director of Agriculture (Agri Business) Thanjavur in endorsement No.Ma.Ku.No.Aa/1217/19 dated 31.03.2021 and quash the same and



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consequently direct the 1st respondent i.e., the Agricultural Production Commissioner and Principal Secretary to Government, Agriculture Department, Chennai to include the petitioner's name in the approved list of Assistant Director of Agriculture (Chemistry Wing) of the year 2018-19 within a specified time frame.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.D.Sasikumar, Addl.Govt.Pleader

ORDER

The petitioner here in who is working as Agricultural Officer (Agri Business) in the office of Deputy Director of Agriculture(Agri Business) Thanjavur, filed the present Writ Petition contending that her case for promotion to the post of Assistant Director of Agriculture (Chemist Wing) was not considered for the year 2018–19 only on the ground that criminal case is registered and pending against her in Crime number No.6 of 2016 of Thanjavur Vigilance and Anticorruption Wing. According to the learned counsel for the petitioner, the crucial date for drawal of list of Assistant Director of Agriculture (Chemist Wing) for the financial year 2018–19 is 15.09.2018 and as on the crucial date, there was no charge sheet laid against the petitioner and that the charge sheet was filed only on 13.03.2019 i.e., after 5 months and 13 days of the crucial date. If there was no charge memo as on



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the crucial date, the petitioner is entitled for inclusion of her name in the promotion list as per Part-AII(5) to Schedule-XI U/s.7(1) of Tamil Nadu Government Servants, (Conditions of Service) Act, 2016.

2. The 2nd respondent filed a counter affidavit stating that the charge sheets were filed against the petitioner in the above said crime on 22.11.2017 itself, and therefore the case of petitioner was not considered for inclusion of her name for the promotional panel for the year 2018–2019.

3. Learned counsel for the petitioner laid great emphasis on the copy of the charge sheet filed along with the Writ Petition and contended that the charge sheet was filed only on 13.03.2019, but not on 22.11.2017 as contended by the learned counsel for the 2nd respondent.

4. In view of the conflict in the dates mentioned in the charge sheet filed by the petitioner and the contention of the second respondent, this Court called for a report from the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam by passing an order dated 20.03.2024. In



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response to the said order, the learned Magistrate submitted a report in D.NO. 914/2024/A1 dated 20.03.2024, wherein it is stated that the charge sheet against the petitioner herein and the other accused was filed on 04.12.2017 and a charge sheet number was assigned as 10/2017 before the Court. The relevant paragraph from the said report reads as under:

“ I beg to submit your Honour that the charge sheet in Cr.No.6/2016 of Vigilance and Anti Corruption, Thanjavur as against the accused A1 namely P.Chandrasekaran, A2.G.Paul Johnson and A3 S.Sivagami has been filed on 04.12.2017 by assigning the charge sheet No.10/2017 before this Court and to that effect office seal of this Court has been affixed in the absence of receipt number on that date.

I further humbly submit your Honour that in the same crime number the remaining three charge sheets have been filed as against accused A1 namely M.Manavalan, A2, G.Vijayakumar, A3, P.Muruganandam and A4, S.Sivagami in charge sheet No.12/2007, as against the accused A1 namely A.X.Elanthiraiyan, A2, G.Vijayakumar, A3, P.Muruganandam and A4,S.Sivagami in charge sheet No.13/2017, and as against accused A1, namely K.Chandramohan, A2, P.Muruganandam and A3 S.Sivagami in which the court seal for receiving the charge sheets have unfortunately not been affixed. All



the four charge sheets have been taken on file on 11.03.2019 by the then presiding officer of this court and has been ordered for appearance of the accused on 15.04.2019 by assigning Special Case number as SSC. 2/2019, SSC.4/2019, SSC.5/2019 and SSC.3/2019 respectively.”

5. In view of the above, it is evident that the charge sheet was filed as early as on 04.12.2017 against the petitioner in the year 2017 itself i.e., much prior to the crucial date i.e., 15.09.2018 and therefore the action of the respondents in not including the name of the petitioner in the promotion panel for 2018–19 cannot be found fault with.

6. In the light of the above, this court does not find merit in the Writ Petition and the same is accordingly dismissed. No costs.

22.03.2024

NCC : Yes/No
Index : Yes/No
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MUMMINENI SUDHEER KUMAR, J.

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