



W.P.(MD).No.7863 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.7863 of 2023

and

W.M.P.(MD)Nos.7284 and 7285 of 2023

P.Parameswaran

... Petitioner

Vs.

The Director of Agriculture,
Directorate of Agriculture,
Chepauk,
Chennai- 5.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Cetrriorarified Mandamus, to call for the records pertaining to the impugned order in FSE2/113761/2022 dated 24.03.2023 on the file of the Respondent and quash the same as illegal in so far as the Annexure-II is concerned and consequently for a direction, directing the Respondent to include the Petitioner in the promotion panel for the post of Assistant Seed Officer for the year 2022-23 and grant permission to the petitioner in the post of Assistant Seed Officer within the time stipulated by this Court.



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For Petitioner : M/s. Lajapathi Roy and Associates

For Respondent : Mr.C.Baskaran,
Government Advocate

ORDER

This Writ Petition has been filed to quash the impugned order dated 24.03.2023 and consequently directing the respondent to include the petitioner's name in the promotion panel for the post of Assistant Seed Officer for the year 2022-2023 and grant permission to the petitioner in the post of Assistant Seed Officer.

2. The petitioner was appointed in the post of Assistant Agricultural Officer in the year 2009. Having completed more than 14 years of service, in view of his seniority, his name was duly included in the panel for promotion to the post of Assistant Seed Officer drawn as on 01.04.2019 and he was issued with the promotion to the post of Assistant Seed Officer on 22.11.2019. In view of his family circumstances, he was not in a position to accept the promotion. Therefore, he submitted a letter seeking temporary relinquishment of promotion



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on 29.01.2020, for the promotion effected on the promotion panel drawn for the promotion year 2019-2020. The petitioner's request seeking temporary relinquishment of promotion was duly accepted by the respondent vide proceedings dated 18.03.2020. As such, he cannot claim promotion for three panel years that is 2019-2020, 2020- 2021, 2021-2022 and his right of promotion would get restored only during the year 2022-2023.

3. Hence, while the petitioner was with a legitimate expectation that he would be included in the panel for promotion to the post of Assistant Seed Officer for the year 2022-2023, the respondent vide proceeding dated 17.02.2023 failed to include the petitioner's name and the petitioner's name was included in the Annexure-II which contained the names of the individuals whose names were not included. The petitioner's name was not included on the ground of relinquishment. The petitioner had submitted a detailed representation dated 09.03.2023, pointing out the fact that the three years period of relinquishment has already expired and therefore, he is eligible to be included in the panel. Since his representation was not responded, challenging the panel of names of Assistant Agricultural Officers fit for regular



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appointment by promotion to the post of Assistant Seed Officers for the year 2022-2023 dated 24.03.2023, this writ petition came to be filed.

4. The learned counsel for the petitioner submitted that the petitioner has completed three years period both by virtue of date of his relinquishment and also as per the expiry of three panel years and the respondents ought to have included his name in the impugned panel for promotion and granted him promotion to the post of Assistant Seed Officer. He further submitted that the petitioner had relinquished promotion temporarily on 29.01.2020 for the promotion of panel year 2019-2020 for which the crucial date had been 01.04.2019. Therefore, the three years period should have been reckoned by the respondents as three panel years, that is, 2019-2020 (crucial date is 01.04.2019), 2020-2021 (crucial date is 01.04.2020), 2021-2022 (crucial date is 01.04.2021). If the date of relinquishment is taken as criteria, on 28.01.2023 the petitioner had completed three years of service and therefore, he is entitled for inclusion in the panel as on 28.01.2023 and on that basis the petitioner pressed for allowing the writ petition.



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5. Per contra, the respondent has filed a counter affidavit and the learned Additional Government Pleader Mr. C. Baskaran submitted that the petitioner's name was included in the promotion panel for the year 2019-2020. Consequent to the same, he was promoted as Assistant Seed Officer in Ramanathapuram district. But he relinquished his right over promotion on 29.01.2020, it ends on 28.01.2023. Accordingly, on the crucial date, that is, 01.04.2022 for the panel year 2022-2023 the period of relinquishment did not expire. Based on the said factual matrix the petitioner would be included for the panel year 2023-2024 (crucial date 01.04.2023). He would be eligible to be included in the panel as on 01.04.2023, that is, for the year 2023- 2024 and the above said panel has not been drawn so far and on that basis, he pressed for dismissal of the writ petition.

6. The petitioner's request was rejected by the impugned order dated 24.03.2023, in which the petitioner's name has been included in the Annexure-II which contained the names of individuals whose names were not included for the reason of relinquishment. According to the learned counsel for the petitioner, the stand taken by the respondents cannot be accepted in view of the



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rule position as well as the relinquishment letter given by the petitioners. The petitioner has given up their right for promotion for the panel year 2019-2020 for which the crucial date was 01.04.2019. The relinquishment letter seeking temporary relinquishment of promotion was submitted on 29.01.2020. Thus, the petitioner had given up his right for promotion for the year 2019-2020, 2020-2021 and 2021-2022. Therefore, it is clear that the petitioner had relinquished his right of promotion temporarily from 01.04.2019 till 01.04.2022. Three years period having expired on 31.03.2022, the petitioner is entitled to get his name included in the panel for promotion for the year 2022-2023, as on 01.04.2022, in terms of Rule 47 (2) of the Tamil Nadu State and Subordinate Service Rules. For the sake of clarity the said rule which reads as follows is extracted:

“Relinquishment of a right or privilege for a temporary period shall be accepted if it is made for a period of not less than three years subject to the condition that after the expiry of the said period, the claim of the right or privilege relinquished will be with reference to the state of affairs that exist on the date of expiry of the period of relinquishment and without restoration of original seniority. If relinquishment of right or privilege is



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made permanently and is accepted subsequent claim of relinquished rights or privileges shall not be entertained.”

7. Applying the said rule, the impugned order is set aside and the respondent is directed to consider the name of the petitioner for inclusion in the panel from 01.04.2022 and pass fresh orders. The revised order is directed to be passed by the respondent within a period of six (6) weeks from the date of receipt of copy of this order.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

12.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To
The Director of Agriculture,
Directorate of Agriculture,
Chepauk,
Chennai- 5.



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L.VICTORIA GOWRI, J.

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