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W.A.(MD)No.990 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.(MD)No.990 of 2024

and

C.M.P.(MD)No.7207 of 2024

1.The Principal Secretary to the Government,
Department of Handlooms and Khadi Textile,
Fort St.George, Chennai-09.

2.The Director of Sericulture,
O/o.The Director of Sericulture,
Department of Sericulture,
Salem.

: Appellants

Vs.

M.Ganapathy

: Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act,
to set aside the order dated 08.08.2023 made in W.P.(MD)No.16340 of
2023.

For Appellant

: Mr.Veera Kathiravan

Additional Advocate General

assisted by Mr.A.Kannan,

Additional Government Pleader



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W.A.(MD)No.990 of 2024



For Respondent : Mr.T.Lajapathi Roy
Senior Counsel
for Mr.S.Rajasekar

JUDGMENT

[Judgment of the Court was delivered by **R.SURESH KUMAR, J.**]

The respondent had been working as Assistant Director of Sericulture. The next promotional avenue for him is the Deputy Director of Sericulture. These services are governed by Section 19 of the Tamil Nadu Industrial Service Rules (In short 'the said Rules'), under which. qualifications have been prescribed for various positions like Assistant Director, Deputy Director etc..

2.Insofar as the post of Deputy Director is concerned, the criteria, that has been prescribed as eligible qualification to get the promotion, was that the incumbent must possess a degree in Botany or Zoology or Chemistry or Agriculture of any University or institution recognized by the University Grants Commission for the purpose of its grant. Therefore, those Assistant Directors, who are in the feeder category for Deputy Director having qualification of a degree in four subjects stated supra alone, will be entitled to get promotion based on inter se seniority.



WEB COPY

W.A.(MD)No.990 of 2024



3.However, some of the candidates, who have been working as Assistant Director in Sericulture Department, may not have the qualification of the degree in four subjects, who had gained rich experience in the Department of Sericulture and reached the position of Assistant Director. Therefore, in order to give promotional avenue to those experienced people in the Department of Sericulture, who reached the **stage** of Assistant Director, who does not have the qualification of degree in four subjects, the Government thought it fit to make an amendment to the Rule by issuing G.O.Ms.No.239, Handlooms, Textiles and Khadi (G1) Department, dated 03.09.1987, under which, the following amendment has been made:

"(b)after having so amended, after item 1, the following items shall be added, namely:-

"2(a)Must possess minimum General Educational Qualification prescribed in Schedule-I to the General Rules for the State and Subordinate Services;

and

(b)Must have practical experience in the Sericulture Department for a period of not less than fifteen years of which he should have served as Assistant Director of Sericulture for a period not less than seven years."



WEB COPY

W.A.(MD)No.990 of 2024



4. Therefore, insofar as the post of Deputy Director is concerned, after Clause (1), which speaks about the degree qualification in four subjects, the word 'or' followed by Rule 2(a) and 2(b) has also been inserted.

5. As per the amended Rule, now, there are two options for those feeder category of Assistant Director to become Deputy Director by way of promotion. The first option is that those, who are having degree qualification in Botany or Zoology or Chemistry or Agriculture, can be promoted and the second option is that those, who do not have degrees in those subjects, however, have general qualifications and experience of not less than 15 years in the Department of Sericulture for a period of not less than 7 years as Assistant Director of Sericulture, would also be eligible in the feeder category of Assistant Director to be considered for the post of Deputy Director.

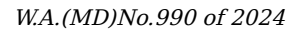
6. In this context, when the respondent approached this Court by filing Writ Petition in W.P.(MD)No.16340 of 2023, seeking for a Writ of Mandamus, directing the respondents therein to include the writ petitioner's name in the panel for promotion of the Deputy Director of



Sericulture for the year 2022-23 and promote the writ petitioner as Deputy Director and grant all further promotions, in light of G.O.Ms.No. 239, Handlloms, Handicrafts, Textiles and Khadi (G1) Department, dated 03.09.1987, the said Writ Petition was heard and disposed of, by an order dated 08.08.2023.

7.Having gone through the Rule, this Court has come to the conclusion that promotion can be given for those, who have qualification of degree in four subjects under the first category, that is Rule(1) and those, who do not have such qualification, can also be considered for promotion, provided if they fulfil two criterias, ie., experience of seven years as Assistant Director and 15 years of whole service in Sericulture Departments.

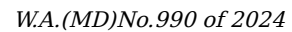
8.Having considered these aspects, the learned Single Judge in the order impugned, has given a positive direction to the appellant Government to give relaxation of the said Rule 2(b), whereby 15 years of experience in the Department of Sericulture and 7 years as Assistant Director at Sericulture, for the reason being that the respondent / writ petitioner had been promoted as Assistant Director only with effect from 23.04.2022. Therefore, for the panel year 2022-23 and even as of now,



9. The said positive direction given by the learned Single Judge through the impugned order to give relaxation for the Rule 2(a) and 2(b) and also consequently, to include the name of the writ petitioner in the panel fit for promotion as Deputy Director for the year 2022-23 by considering the representation dated 20.05.2023, has been appealed. As the appellants are being aggrieved over the said positive direction, the present appeal has been filed.

10. We have heard the arguments of both sides and gone through the relevant rules as well as factual matrix.

11. It is an admitted case on the part of the respondent/writer that he had been given promotion only in the year 2022 and therefore, admittedly, he did not have the experience of 7 years as Assistant Director. He, therefore, as per Rule 2(b), since should have the eligibility of such experience of 7 years, he cannot be considered for the promotion to the post of Deputy Director for the panel year 2022-23.



15. Therefore, the positive direction to the appellant / Government to give relaxation, consequently, to include the respondent/writ petitioner in the panel fit for the promotion to the post of Deputy Director for the year 2022-23 that has been given in para Nos. 10 and 11 by the learned Single Judge, in our considered view, would not be justifiable. Therefore, we do not have any hesitation to interfere with the order passed by the learned Single Judge, which is impugned herein.



WEB COPY

W.A.(MD)No.990 of 2024



16.In view of the above, we direct the appellant/Government to consider the representation given by the respondent / writ petitioner, seeking relaxation of Rule 2(b) of the Rules.

17.In this regard, it is up to the Government or the employer, who is the appellant herein, to take into consideration of all the relevant factors to pass orders on the request of the respondent/ writ petitioner.

18.Therefore, to that extent, the positive direction, that has been given in para Nos.10 and 11 of the impugned order dated 08.08.2023 is only set aside.

19.With this modification, this Writ Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.K.,J.] & [G.A.M.,J.]
21.06.2024

Neutral Citation : Yes/No
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WEB COPY



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R.SURESH KUMAR, J.
and
G.ARUL MURUGAN, J.

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ORDER MADE IN
W.A.(MD)No.990 of 2024

21.06.2024