



W.A(MD) No.837 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reserving the order	Date of Pronouncing the order
27.08.2024	24.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA
PRASAD

W.A(MD) No.837 of 2020
and
C.M.P (MD) No.4620 of 2020

1.The Agricultural Production Commissioner
and Principal Secretary to Government,
Agriculture Department,
Secretariat, Chennai – 600 009.

2.The Director,
Agricultural Marketing and Agri Business,
Guindy, Chennai – 600 032. ...
Appellants/Respondents

-VS-

V.Govindasamy ... Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside
the order passed in W.P. (MD) No.15376 of 2014 dated 23.01.2020.



W.A(MD) No.837 of 2020

For Appellants : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.N.Ramesh Arumugam,
Government Advocate

For Respondent : Mr.M.Joseph Thatheus Jerome

J U D G M E N T

The writ appeal had been filed by the first and second respondents in W.P. (MD) No.15376 of 2014 aggrieved by the direction of the learned Single Judge whereby, the writ petition was allowed and the proceedings impugned in the writ petition, dated 08.04.2014, rejecting the claim of the petitioner seeking promotion to the post of secretary of the Market Committee, had been set aside and it was directed to promote the writ petitioner as Secretary of the Market Committee notionally with effect from 21.12.2012 and re-fix his pension in the post of Secretary of the Market Committee and to settle the retirement and pensionary benefits as if he retired as Secretary of the Market Committee with effect from 31.07.2015.

2. For better understanding, the parties would be referred as



W.A(MD) No.837 of 2020

they were referred in the writ petition.

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3. The writ petitioner, V.Govindasamy, had filed W.P.(MD) No.15376 of 2014 for issuance of certiorarified mandamus to call for the records relating to the impugned order dated 08.04.2014, issued in the reference Letter No.30023/VeVi.1/2013-6 and to direct the respondents to promote the petitioner as Secretary of the Market Committee with effect from the year 2011-2012.

4. Short facts leading to the filing of the writ appeal, are as follows:-

4.1. The writ petitioner had joined the service as Supervisor in the Regulated Market, Thuraiyur, Trichy, on 19.06.1987. Later, he was promoted and posted as Superintendent. The post of Superintendent is the feeder category to the post of Secretary of the Market Committee.

4.2. The seniority for the said post is a state-wide seniority, in which, the petitioner stands at serial No.58 for the year 2006-2007. However, Thiru.S.Arumugarajan, who had become Superintendent only in the year 2007-2008 followed by M.Ravi in the year 2008-2009 and



W.A(MD) No.837 of 2020

Suresh Babu in the year 2010-2011, were promoted as Secretary of the Market Committee.

4.3. The qualification for appointment to the post of Secretary of the Market Committee, is that a person must have worked in any one or more of the posts of Superintendent of Markets, Inspector of Licensed Premises and Manager in the Tamil Nadu Agricultural Marketing Subordinate Service for a period of not less than five years and should have passed the tests namely, Government Technical Examination in Agriculture in Higher Grade, Account Test for Executive Officers or Account Test for Subordinate Officers, Part I and Part II and Departmental test for Agricultural Marketing Department and should have also successfully completed the Market Secretaries Training Course conducted by the Government of India, Ministry of Rural Reconstruction, Directorate of Marketing and Inspection.

4.4. It is the case of the petitioner that he had passed the Account Test for Executive Officer in 1988 as per clause 4(iii)(b) of 'G.O.Ms.No.476, Agriculture (AM.III) Department, dated 05.07.1989' (hereinafter referred to be as 'G.O.Ms.No.476') and



W.A(MD) No.837 of 2020

completed the Market Secretaries Training Course for 3 months from 01.08.2012 to 31.10.2012 as per Clause 4(iv) of G.O.Ms.No.476, thereby he was fully qualified to be considered for promotion to the post of Secretary of the Market Committee on 31.10.2012.

4.5. The further case of the writ petitioner is that the respondents had issued G.O.Ms.No.187, dated 30.08.2010 and relaxed Rule 4 Annexure-II of the Service Rules to four persons namely, M.Nagarajan, V.N.Muthuramalingam, V.Sekar and S.Jeyalakshmi and posted them as Secretary of the Market Committee, even though they had not undergone the training at Hyderabad.

4.6. Similarly, another G.O.No.292, dated 21.12.2012 had been issued by the Government relaxing Rule 4 Annexure-II of the Service Rules in favour of three persons namely, R.Sureshababu, M.Ravi and S.Arumugarajan, who had not completed 5 years of service as Superintendent in the regulated market. The Government had also issued G.O.Ms.No.106, Agriculture (AM.I) Department, dated 03.03.2016' (hereinafter referred to be as 'G.O.Ms.No.106') and relaxed Rule 4 Annexure-II of the Service Rules to one R.Devendran who had



W.A(MD) No.837 of 2020

not completed 5 years of service as Superintendent in the Regulated Market.

5. The grievance of the writ petitioner is that when the aforesaid Government Orders had been issued relaxing the condition of 5 years of experience and the training course prescribed in the Service Rules for promotion, he alone was not treated on par with above mentioned persons and he was discriminated by not considering him for promotion on the ground that he had not completed three months training.

6. Admittedly, as on 30.10.2012, the petitioner was eligible for the post of Secretary of the Marketing Committee by completing the training at Hyderabad from 01.08.2012 to 31.10.2012, but G.O.Ms.No. 292 was issued on 21.12.2012 relaxing the rule prescribing completion of 5 years of service as Superintendent in the Regulated Market in favour of three persons. At that point of time, the petitioner was fully eligible for the above post, but he was not considered. Therefore, the petitioner would claim that if the respondents have relaxed the rules, he would have been entitled for promotion.



W.A(MD) No.837 of 2020

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7. The writ petitioner has attained the age of superannuation on 31.07.2015 and even thereafter, on 03.03.2016, the Government by G.O.Ms.No.106, dated 03.03.2016 relaxed the rules prescribing completion of 5 years of service as Superintendent in the Regulated Market in respect of one R.Devendran and granted promotion.

8. Mr.R.Baskaran, the learned Additional Advocate General appearing for the appellants/respondents would submit that the writ petitioner should have successfully completed the Market Secretaries Training Course conducted by the Government of India on the crucial date namely, 1st April of every year, for getting promotion as Market Secretary. When the willingness was called for from the petitioner for undergoing Market Secretary Training at Hyderabad from 01.08.2009 to 31.10.2009, the petitioner was not willing citing his family circumstances and again when willingness was sought for, for the training from 01.08.2010 to 31.10.2010, the petitioner once again expressed his unwillingness citing family circumstances and therefore, the respondents are not at all responsible for the said lapse of the petitioner.



W.A(MD) No.837 of 2020

9. The learned Additional Advocate General would submit that from 2004 to 2007, no communication was received from the Government of India, inviting the officers to undergo the above training and only on 01.04.2010, there was a necessity to fill up the vacant posts of Market Committee Secretary and therefore, the Government issued G.O.Ms.No.187, dated 30.08.2010 giving promotion to three persons as Market committee Secretary in relaxation of relevant rules prescribing the training and similarly, G.O.Ms.No.292 was issued on 21.12.2012 promoting three persons by relaxing 5 years of experience.

10. The learned Additional Advocate General would further submit that even though the writ petitioner had completed the training with effect from 01.08.2012 to 31.10.2012, after the crucial date 01.04.2011 fixed for the panel year 2011 – 2012, the writ petitioner has not qualified since he was not completed the five years of service in the post of Superintendent in the Regulated Market and as as relaxation of two rules was involved in his case viz., one for non-completion of training before the crucial date and another for non-completion of five years service and he had declined two chances of undergoing training for his personal reasons, the Government had not considered him to give



W.A(MD) No.837 of 2020

relaxation for non-completion of training as well as non-completion of five years of service. Hence, he was not considered for the panel for the year 2011 – 2012.

11. The learned Counsel appearing for the respondent/writ petitioner would submit that the writ petitioner was unable to attend the training course for the period from 01.08.2009 to 31.10.2009 and from 01.08.2010 to 31.10.2010 owing to his family circumstances. The writ petitioner had completed the training for the post of Market committee Secretary conducted by the Government of India at Hyderabad from 01.08.2012 to 31.10.2012 and G.O.Ms.No.292 was issued on 21.12.2012, relaxing the completion of five years of service as Superintendent in the Regulated Market in favour of three persons and at that point of time, since the writ petitioner has completed the training on 31.10.2012 itself, he was eligible for promotion to the post of Market committee Secretary.

12. The learned Counsel would further submit that even according to the appellants, he was eligible for consideration in the panel for the year 2014 – 2015. However, the panel for the year 2014 – 2015 was processed and approved by G.O.Ms.No.106 and in the meantime, the



W.A(MD) No.837 of 2020

writ petitioner had retired from service on 31.07.2015 on attaining his superannuation. Hence, his name was not considered in the panel for the year 2014 – 2015.

13. The learned Counsel for the writ petitioner further contended that in G.O.Ms.No.106 dated 03.03.2016 it is clearly stated that the period for the panel year 2014 – 2015 expired on 01.04.2015, the eight vacant posts of Market Committee Secretary as approved earlier has been reduced to five vacant posts and even though, the writ petitioner was qualified and available for promotion to the said post during the panel year 2013 – 2014 and 2015 – 2015, purposively NIL panel has been drawn leaving the panel 2013 – 2014 to expire and only after the retirement of the writ petitioner on 31.07.2015, the first respondent had issued the above G.O.MS.No.106 for the panel year 2014 – 2015.

14. Heard both sides and perused the materials available on record.

15. The main contention of the appellants is that though the writ petitioner had completed the training with effect from 01.08.2012 to



W.A(MD) No.837 of 2020

31.10.2012 and the crucial date for the panel year 2011 – 2012 is 01.04.2011, hence he sought eligible for promotion to the post of Market Committee Secretary. This apart, the writ petitioner has also not completed five years of service in the post of Superintendent in the Regularised Market Committee.

16. In the present case, it is pertinent to note that the writ petitioner was promoted to the post of Superintendent on 29.06.2007 and as per the rule, he should have completed five years of service in the post of Superintendent and the said five years will get completed on 29.06.2012. Hence, as rightly contended by the learned Additional Advocate General for the appellants/respondents that the writ petitioner was not eligible for the promotion to the post of Market Committee Secretary in the panel year 2011 – 2012 since he has not fulfill two conditions/rules, first one being the non-completion of five years of service as Superintendent and secondly, the training was completed only on 31.10.2012.

17. It can be seen from the records that though the relaxation has been given to eight similarly placed persons like the writ petitioner



W.A(MD) No.837 of 2020

and they were promoted to the posts of Market Committee Secretary, it cannot be claimed as a matter of right by the writ petitioner. Having relaxation been conferred to eight such similarly placed persons, the appellants ought to have grant the same relaxation to the respondent/writ petitioner. However, they failed to do so and it amounts to discrimination and the same is in violation of Article 14 of the Constitution of India.

18. Even as per the appellants/respondents, the writ petitioner was eligible for consideration in the panel for the year 2014 – 2015. However, since the panel was approved only on 03.03.2016 vide G.O.Ms.No.106 and in the meantime, the writ petitioner had retired from service on 31.07.2015 on attaining the age of superannuation, he was not considered for promotion to the post of Market Committee Secretary. It is pertinent to note that the panel for the year 2014 – 2015, the crucial date is 01.04.2014 and as on that date, the writ petitioner has fulfilled both the conditions, however, he has not fulfilled the conditions for the panel of the year 2011 – 2012.

19. Therefore, it is clear and evident that the writ petitioner was eligible for the panel of the year 2014 – 2015 as on 01.04.2014 for



W.A(MD) No.837 of 2020

the promotion to the post of Market Committee Secretary but, since there was a delay in approving the panel and in the meantime, the petitioner has also got retired from service on 31.07.2015, he could not be promoted as Market Committee Secretary.

20. Hence, we are of the considered view that even according to the appellants that the writ petitioner is eligible for the panel of the year 2014 – 2015 to the post of Market Committee Secretary and since the crucial date is 01.04.2014, he should be given promotion to the post of Market Committee Secretary from 01.04.2014.

21. For the foregoing reasons, this writ appeal is partly allowed and we are inclined to modify the order of the learned Single Judge dated 23.01.2020, as follows:-

(i) The appellants/respondents are directed to promote the petitioner as Market Committee Secretary notionally with effect from 01.04.2014;



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W.A(MD) No.837 of 2020

(ii) to re-fix the petitioner's pension in the post of Market Committee Secretary and pay all the benefits arising thereon and to settle the retirement benefits as if the petitioner retired as Secretary of the Market Committee;

(iii) to pay all the pensionary benefits, arrears of pension in the post of Secretary of the Market Committee with effect from 31.07.2015 within a period of twelve weeks from the date of receipt of a copy of this order.

Consequently, the connected Miscellaneous Petition is closed. No costs.

[C.V.K., J.] [J.S.N.P., J.]
24.09.2024

Index: Yes/No
Speaking/Non Speaking
Neutral citation: Yes/No
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W.A(MD) No.837 of 2020



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W.A(MD) No.837 of 2020

C.V. KARTHIKEYAN, J.
and
J.SATHYA NARAYANA PRASAD, J.

PKN

To

- 1.The Agricultural Production Commissioner
and Principal Secretary to Government,
Agriculture Department,
Secretariat, Chennai – 600 009.
- 2.The Director,
Agricultural Marketing and Agri Business,
Guindy, Chennai – 600 032.

W.A(MD) No.837 of 2020

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