



W.A.(MD)No.454 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Twenty Seventh day of August Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN
and
The Hon`ble Mr.Justice K.K.RAMAKRISHNAN

C.M.P(MD)Nos.7682 & 3711 of 2024
in
W.A.(MD)No.454 of 2024

CMP(MD).7682/2024:

S.RAJKUMAR,
RECORD CLERK,
PUDUKOTTAI MARKET COMMITTEE,
PUDUKOTTAI.

... PETITIONER/RESPONDENT/
WRIT PETITIONER

Vs

1 THE COMMISSIONER,
AGRICULTURAL MARKETING AND AGRI BUSINESS,
CHENNAI.

2 THE SECRETARY
PUDUKOTTAI MARKET COMMITTEE,
PUDUKOTTAI DISTRICT.

... RESPONDENTS/ APPELLANTS/
RESPONDENTS



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3 D.ILAKIADASAN,
JUNIOR ASSISTANT,
PUDUKOTTAI MARKET
COMMITTEE,
GANDARVAKOTTAI,
PUDUKOTTAI DISTRICT.

... RESPONDENT/2nd RESPONDENT/
3rd RESPONDENT

Civil Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to Vacate the Interim Stay passed on 21.03.2024 in CMP(MD). No.3711 of 2024 in WA(MD). No.454 of 2024 and thus render justice.

CMP(MD).3711/2024:

1 THE COMMISSIONER
AGRICULTURAL MARKETING AND AGRI BUSINESS,
CHENNAI.

2 THE SECRETARY,
PUDUKOTTAI MARKET COMMITTEE,
PUDUKOTTAI DISTRICT.

... PETITIONERS/APPELLANTS

Vs

1 S.RAJKUMAR

2 D.ILAKIADASAN,

... RESPONDENTS/RESPONDENTS

Civil Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to Stay the operation of the order dated 29.09.2023 in WP(MD). No.20117 of 2021, pending disposal of the above Writ Appeal and thus render justice.

PRAYER IN WA(MD)No. 454 of 2024:

To set aside the orders passed by this Hon'ble court in WP(MD)NO. 20117 OF 2021 dated 29.09.2023.

<https://www.mhc.tn.gov.in/judis>



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Prayer in WP(MD). 20117/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus, calling for the reocrds connected with the impugned order passed by the 2nd Respondent in Na.Ka.No.1333/A/2020 dated 27-05-2021 and quash the same and consequently direct the 2nd respondent to promote the petitioner as Junior Assistant from the date on which the 3rd Respondent got promoted as Junior Assistant with monetary and other consequential benefits.

ORDER : These Civil Miscellaneous Petitions coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.S.GOVINDAN, Advocate for the petitioner in CMP (MD).7682/2024 & for the 1st Respondent in CMP(MD).3711/2024 and of Mr.P.GANAPATHI SUBRAMANIAN, Advocate for the 3rd Respondent in CMP(MD). 7682/2024 & for the 2nd Respondent in CMP(MD).3711/2024 and Mr.VEERA KATHIRAVAN, Additional Advocate General-III Assisted by Mr.M.SARANGAN, Additional Government Pleader on behalf of the Respondents No.1 & 2 in CMP(MD). 7682/2024 & for the petitioners in CMP(MD).3711/2024, the court made the following order:-

(Order of the Court was made by P.VELMURUGAN, J.)

Since same issue arises for consideration, stay petition and vacate stay petition are taken up together.

2. The learned Additional Advocate General appearing for the appellant / petitioner in stay petition would submit that the seniority fixed on 10.05.2021 was not challenged. Subsequently, the second respondent was promoted as Junior Assistant from the feeder category of Market Maistry. He would submit that the mode of appointment of Junior Assistant is through (i) direct recruitment and (ii) promotion from feeder category. The percentage of direct recruitment is 80% and promotion



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from the feeder category is 20%. At the relevant point of time, there were only four posts vacant and as per the ratio, only one person can be considered for promotion from feeder category. Since the second respondent is the senior most person in the panel list, he was considered for promotion and accordingly promoted. The said fact has not been considered by the learned Single Judge. If the first respondent / writ petitioner is also accommodated for promotion, and if the promotion from feeder category exceeds 20%, Tamil Nadu Public Service Commission would not accord approval for the same. Considering the above facts, at the time of the appeal, stay was granted. Therefore, he would pray that the stay can be made absolute and hearing of the appeal may be fixed.

3. The learned counsel for the first respondent / petitioner in vacate stay petition would submit that the first respondent was transferred to some other place due to Covid - 19 and hence, he could not challenge the panel list. According to him, the first respondent is the only eligible person for promotion to the post of Junior Assistant and the second respondent who got the promotion is not eligible. The learned single Judge rightly considered those facts and granted order in favour of the first respondent. Hence, he prayed that the stay may be vacated and the appeal may be posted for final hearing.

4. Heard both sides and perused the materials placed before this Court.



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5. Admittedly, the names of the first respondent / writ petitioner and the second respondent / private respondent are found in the panel list in serial nos.1 and 2 respectively. As stated by the learned Additional Advocate General, the date of birth of the second respondent is 04.06.1979 and the date of birth of the first respondent is 09.04.1983 and both are eligible for promotion and promotional avenue for feeder category is 20%. As per the ratio, only one can be accommodated from feeder category. If two candidates are sailing in the same boat, date of birth would be taken into consideration for fixing the seniority. Considering these circumstances, this Court while hearing the appeal, granted interim stay. There is no reason for this Court to vacate the stay. The stay already granted by this Court is made absolute. The vacate stay petition is dismissed.

6. Since the matter is regarding promotion, list on 19.09.2024 for final disposal.

sd/-
27/08/2024

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/09/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

MBI
TO
1 THE COMMISSIONER
AGRICULTURAL MARKETING AND AGRI BUSINESS,
CHENNAI.



W.A.(MD)No.454 of 2024

2 THE SECRETARY,
PUDUKOTTAI MARKET COMMITTEE,
PUDUKOTTAI DISTRICT.

ORDER
IN
C.M.P(MD)Nos.7682 & 3711 of 2024
in
W.A.(MD)No.454 of 2024
Date :27/08/2024

SA/VR/SAR. /03.09.2024/6P/3C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.