



W.P.No.15587 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.15587 of 2018

K.Harikrishnan

... Petitioner

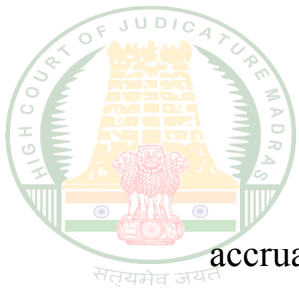
Vs.

1.The Agricultural Production Commissioner and
the Secretary to Government,
Agriculture (Ve.nee.5) Department,
Fort St.George,
Chennai 600 009.

2.The Director of Agriculture,
Chepauk,
Chennai 600 005.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to grant notional promotion to the petitioner to the post of Joint Director of Agriculture based on the particulars forwarded for inclusion of his name in the panel Joint Director of Agriculture for the year 2017-2018 with effect from the date on which the proposals have been received by the Government in May 2018 or from the crucial date or from the date of



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accrual of vacancy whichever is earlier and beneficial to the petitioner as guided by the Hon'ble Apex Court in similar cases and direct the respondents herein to disburse all the consequential attendant, service and monetary benefits and also the revised retiral pensionary benefits, enhanced regular pension in the post of Joint Director of Agriculture and disburse all the accrued arrears within a short date that may be fixed by this Court.

For Petitioner : Mr.K.Rajkumar

For Respondents : Mr.T.Chezhiyan, AGP for R1 & R2

ORDER

This Writ Petition has been filed to direct the respondents to grant notional promotion to the petitioner to the post of Joint Director of Agriculture based on the particulars forwarded for inclusion of his name in the panel for Joint Director of Agriculture for the year 2017-2018 with effect from the date on which the proposals have been received by the Government in May 2018 or from the crucial date or from the date of accrual of vacancy whichever is earlier and beneficial to the petitioner as guided by the Hon'ble Apex Court in similar cases and direct the respondents herein to disburse all the consequential attendant, service



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and monetary benefits and also the revised retiral pensionary benefits, enhanced regular pension in the post of Joint Director of Agriculture and disburse all the accrued arrears within a time that may be fixed by this Court.

2. Heard Mr.K.Rajkumar, learned counsel for the petitioner, Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents and perused the materials available on record.

3. The petitioner has been promoted to the post of Assistant Director with retrospective effect on par with his junior for the promotion year 2007-08 with due seniority and he was also given with the notional promotion in the cadre of Deputy Director also for the promotional year 2013-14 on par with his above junior. The next level of promotion for the petitioner would be the Joint Director of Agriculture. The crucial date for preparing the promotion panel for the post of Joint Director would be 01.04.2017. During that relevant point of time, there are 16 vacancies in the post of Joint Director, Agriculture. The petitioner's name was also



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included in the panel and the panel was sent to the Government from the Directorate during May 2017 itself. The petitioner has got his age of superannuation on 30.06.2017 and retired from service.

4. The learned counsel for the petitioner submitted that despite the petitioner's name has been included in the panel, he is not able to get promotion because of the delay involved in approving the panel and issuing the order of promotion.

5. The learned Additional Government Pleader for the respondents submitted that as on the date when the panel was approved, the petitioner was not in service and hence, no promotion can be given to a person who did not exist in service at the relevant point of time. In the decision of the Hon'ble Supreme Court held in the case of ***Ramachandra Dayaram Gawande Vs. Union of India, reported in 1997 SCC (L&S) 99***, it is held that no employee has a right to promotion but has a right to be considered for promotion according to the rules. It is further submitted that in the case on hand, the petitioner's name was not taken up for

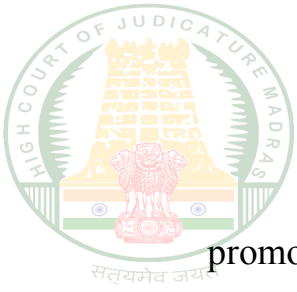


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consideration to be included in the approved panel and hence, the relief as sought by the petitioner cannot be granted.

6. There cannot be any disagreement on the rule laid down by the Hon'ble Supreme Court that a person cannot claim promotion as a matter of right, but he has a right to be considered for promotion in accordance with the rules. The petitioner has been considered for promotion and only on that basis, his name has been included in the promotion panel for the year 2017-18. The crucial date for preparing promotion panel would be 01.04.2017.

7. The panel has been rightly prepared because as on the said crucial date, there were 16 vacancies available in the post of Joint Director of Agriculture. Had the respondent Government considered and given its approval order without any administrative delay, that would have placed the petitioner in a better position and he would have got his promotion before his retirement. Despite the petitioner was found to have been included in the promotion panel, he could not get the actual



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promotion due to the administrative delay caused in granting the order of approval.

8. In fact, the Government is going to give the seal of approval for those candidates who have been recommended by the second respondent who is the head of the Department. So, the merits and demerits for the candidates who are recommended for promotion would be mostly on the decision taken by the head of the Department who is the second respondent herein.

9. It is not the case of the respondents that the petitioner would not have been considered for promotion, despite his name has been included in the panel due to some specific reasons. The petitioner did not come under the record of the second respondent on any negative allegations. The delay in promotion was just an administrative delay and nothing else.



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10. The attention of this Court was attracted to the earlier decisions rendered by this Court in the cases involving similar such facts in W.P.No.17131 of 2014 dated 14.10.2022. This Court has held that despite the panel has been prepared on the crucial date, the petitioner in that case happened to get his retirement without getting his order of promotion due to the intervention of Lok Sabha elections for the year 2009. So it is held that in such situation, the person who got his right to get promotion cannot be prejudiced. It is observed that the mandatory duty on the part of the Government in considering the promotion of the Government Servants at the relevant point of time is the fundamental right guaranteed to the employees under Article 16 of the Constitution of India and any violation in this regard should not go to the detriment of the individuals. By holding so, the petitioner in the above case was given with the notional benefit of promotion from the crucial date of preparing promotion panel for the relevant year.



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11. In yet another case in W.P.Nos.44605 to 44608 of 2016 dated 29.08.2023, similar reasons and sentiments have been expressed and the petitioner therein has been given with the benefit of notional promotion in the same line of appreciation. Hence, I feel the petitioner's case should also be considered favourably. The petitioner was deprived to get the another level promotion before his retirement only in view of the delay occurred in granting the approval order for the promotion panel, despite it has been sent to the Government in the month of May 2017 itself.

12. Since the petitioner's fundamental right under Article 16 has been infringed due to the delay caused unmindful of the fact that the candidates included in the promotion panel get their age of superannuation shortly, I feel the petitioner's grievance should be redressed by granting the relief of notional promotion with effect from 01.04.2017 which is the crucial date for preparing the promotion panel for the year 2017-18 .



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13. In the result, this Writ Petition is allowed and the respondents are directed to issue an order by granting notional promotion for the petitioner retrospectively from 01.04.2017 for the post of Joint Director of Agriculture, which is the crucial date for the promotion panel 2017-18 and disburse him all other attendant and service benefits including the pensionary benefits and pass orders in this regard within a period of four weeks from the date of receipt of a copy of this order. No costs.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

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To

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the Secretary to Government,
Agriculture (Ve.nee.5) Department,
Fort St.George,
Chennai 600 009.

2.The Director of Agriculture,
Chepauk,
Chennai 600 005.

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