



WP No. 20441 & 20436 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-07-2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WP Nos. 20441 & 20436 of 2025

AND

WMP NOS.23050 , 23049, 23057 OF 2025

1. M.Murugan
S/o.K.Muthaiah,
33-A, Pillaiyar Koil Street,
Nannagaram,Melakaram Post,
Thenkasi District

Petitioner(s)

Vs

1. The Government Of Tamil nadu
Rep By Its Principal Secretary,
Handlooms, Handicrafts, Textiles, And
Khadi (G1) Department,
Fort St.George, Chennai-600 009

2.The Director
Sericulture Department, Nethaji Nagar,
Hasthampatti, Salem -636 007

3.The Joint Director Of Sericulture
O/o.Director Of Sericulture,
Sericulture Department, Salem-636007

4.The Assistant Director
Sericulture Department, Thenkasi

Respondent(s)



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1. R.Gnanapragasam

S/o.Raji Kannu,

No.41, Vichanthangal Mettu Colony,

Vichanthangal, Kilakattur

Kancheepuram District

Petitioner(s)

Vs

1. The Government Of Tamil nadu

Rep By Its Principal Secretary,

Handlooms, Handicrafts, Textiles,

And Khadi (G1) department,

Fort St.George, Chennai-600 009

2.The Director

Sericulture Department, Nethaji Nagar,

Hashtampatti, Salem -636 007

3.The Joint Director Of Sericulture

O/o.Director Of Sericulture,

Sericulture Department, Salem-636007

4.The Assistant Director

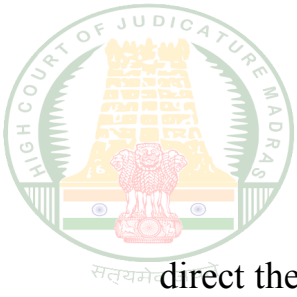
Sericulture Department, Vaniyambadi

Respondent(s)

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PRAYER

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records relating to the second respondent herein in Memo No.Na.Ka.No.22654/Pa.A.4/2021-6 dated 1.11.2023 issued pursuant to the issuance of the order of the first respondent in Government Letter No.8836/G2/2021-12 Handlooms, Handicrafts, Textiles and Khadi(G2) Department dated 11.10.2023 and quash the same and consequently



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direct the respondents to confer the post of Junior Inspector of Sericulture to the petitioner.

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PRAYER

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records relating to the second respondent herein in Memo No.Na.Ka.No.22654/Pa.A.4/2021-6 dated 1.11.2023 issued pursuant to the issuance of the order of the first respondent in Government Letter No.8836/G2/2021-12 Handlooms, Handicrafts, Textiles and Khadi(G2) Department dated 11.10.2023 and quash the same.

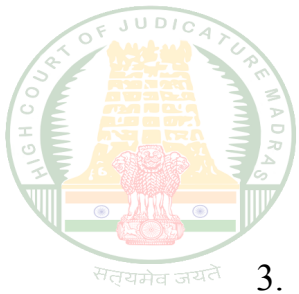
For Petitioner(s): M/s. R.S.Anandan
In Both WPs

For Respondent(s): Mr.R.U.Dinesh Raj Kumar
A.G.P., For R1 To R4
in Both Wps

COMMON ORDER

These writ petitions have been filed to call for the records relating to the second respondent herein in Memo No.Na.Ka.No.22654/Pa.A.4/2021-6 dated 1.11.2023 issued pursuant to the issuance of the order of the first respondent in Government Letter No.8836/G2/2021-12 Handlooms, Handicrafts, Textiles and Khadi(G2) Department dated 11.10.2023 and quash the same.

2. Though there are two different petitioners, the legal position and the issue involved is one and the same. Hence, both the writ petitions are taken together for disposal.



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3. Heard Mr.R.S.Anandan, learned counsel for the petitioners and Mr.R.U.Dinesh Raj Kumar, learned Additional Government Pleader for the respondents.

4. The learned counsel for the petitioners would submit that the petitioners joined the service of the Sericulture Department as a daily wager. On completion of 10 years of service, they were regularized and posted as a Reeling worker. It is the specific submission of the petitioners that the qualified regularized daily wager are eligible for promotion to the post of Junior Inspector of Sericulture by recruitment by transfer. According to the then Service Rule, who ever regularized and having SSLC qualification are considered for promotion to the post of Junior Inspector, Sericulture.

5. The learned counsel would submit that the respondents have considered for nearly 33 persons for promotion for the post of Junior Inspector of Sericulture, who were having SSLC. However, though the petitioners having SSLC qualification as early as on September 2016 & 2017 respectively, taking into consideration of the subsequent amendment to the Special Rules with effect from 18.09.2019, the respondents have denied the petitioner's promotion. Though the 2nd respondent sent the proposal to the first respondent-Government for promotion by referring the amended Rules, the Government rejected the proposal. It is the contention of the petitioners that the petitioners have got the required qualifications as per old Rules. Therefore, prayed that for the vacancy



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that had arisen prior to amended Rule dated 18.09.2019, old Rule has to be followed. Hence, prayed to interfere with the impugned order dated 01.11.2023.

In support of his contention, the learned counsel relied upon the judgment of the Hon'ble Supreme Court in *Y.V.Rangaiah and others Vs. J.Sreenivasa Rao and others* reported in (1983) 3 SCC 284 and the Division Bench judgment of this Court in *A. Ravi and others Vs. The Secretary to Government and others* reported in *Manu/TN/1076/2013*.

6. Per contra, the learned Additional Government Pleader would vehemently contend that only based on the extant Rule, the vacancy has to be filled up. In the case in hand, the petitioners were never considered for promotion until the amendment of Rules and that the petitioners themselves were qualified in the year 2016 & 2017 respectively. Therefore, the petitioners cannot seek promotion as a matter of right. In support of his contention, the learned Additional Government Pleader relied upon the judgment of the Hon'ble Supreme Court in *State of Himachal Pradesh and others Vs. Raj Kumar and Others* reported in (2023) 3SCC 773.

7. I have given my anxious consideration to either side submissions.

8. While looking at the impugned order, the respondents rejected the petitioners' request for promotion on the ground that, on the date when the



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petitioners were considered for promotion, a new Rule came into existence.

Therefore, according to the new Rule, a pass in higher secondary examination in Biology, Zoology and Botany stream is essential qualification for consideration to the promotional post of Junior Sericulture Inspector. But, the petitioners' contention is that, the vacancies that had arisen prior to the amendment dated 18.09.2019 has to be filled up with the old Rules.

9. It is not in dispute that prior to 18.09.2019, the petitioners were eligible to be considered for the post of Junior Sericulture Inspector. Now, the issue to be decided in the present writ petitions is that, whether change in Rule will have any impact upon the consideration for promotional post of existing vacancy that had become vacant prior to new Rule came into force?. In this connection, the learned counsel for the petitioners relied upon ***Y.V.Rangaiah***'s case [cited supra], wherein the Hon'ble Supreme Court has held that any vacancies that occurred prior to the amended Rules, have to be filled up in accordance with old Rules and not by the amended Rules. The Hon'ble Division Bench of this Court has also taken a similar view in ***A. Ravi***'s case [cited supra].

10. But, ***Y.V.Rangaiah***'s case [cited supra] was subsequently though not over ruled, has **carved** out many exceptions in the judgment of the Hon'ble Supreme Court in ***Deepak Agarwal and another Vs. State of Uttar Pradesh and others*** reported in **(2011) 6 SCC 725**, wherein in paragraph 26, it was observed that there is no rule of universal or absolute application that the old



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vacancies are to be filled invariably by the law existing on the date when the vacancy arises. It was further held that the right of promotion is not a fundamental right. Therefore, the right to be considered for promotion accrues on the date of consideration of the eligible candidates. According to the above referred judgment, if any of the candidates have already been considered for promotion, and in the interregnum, if any amendment came into force prejudicial to those persons, only in such a peculiar circumstances, as against those persons, the old Rule has to be applied. In all other case, only the extant Rule has to be applied.

11. Therefore, it is apparently clear that the *Y.V.Rangaiah's* case [cited supra] was subsequently clarified in *Deepak Agarwal's* case [cited supra]. The *Deepak Agarwal's* case has been recently followed in the judgment of the Hon'ble Supreme Court in *Raj Kumar's* case [cited supra], wherein the Hon'ble Mr. Justice Pamidighantam Sri Narasimha, while speaking for the Bench, has summarized the exception to the broad proposition formulated in *Y.V.Rangaiya's* case [cited supra]. For Ready reference, this Court deems it appropriate to extract paragraph 36:-

“Analysis

36. A review of the fifteen cases that have distinguished *Rangaiah* [*Y.V. Rangaiah v. J. Sreenivasa Rao*, (1983) 3 SCC 284 : 1983 SCC (L&S) 382] would demonstrate that this Court has been consistently carving out exceptions to the broad proposition formulated in *Rangaiah* [*Y.V. Rangaiah v. J. Sreenivasa Rao*, (1983) 3 SCC 284 : 1983 SCC (L&S) 382]. The findings in these judgments, that have a direct bearing on the

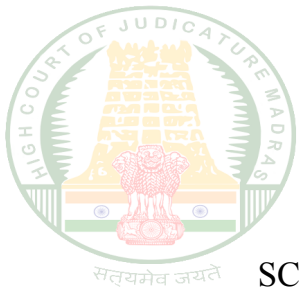


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proposition formulated by *Rangaiah* [*Y.V. Rangaiah v. J. Sreenivasa Rao*, (1983) 3 SCC 284 : 1983 SCC (L&S) 382] are as under

1. There is no rule of universal application that vacancies must be necessarily filled on the basis of the law which existed on the date when they arose, *Rangaiah case* [*Y.V. Rangaiah v. J. Sreenivasa Rao*, (1983) 3 SCC 284 : 1983 SCC (L&S) 382] must be understood in the context of the rules involved therein. [*Deepak Agarwal v. State of U.P.*, (2011) 6 SCC 725, para 26 : (2011) 2 SCC (L&S) 175; *Union of India v. Krishna Kumar*, (2019) 4 SCC 319, para 10 : (2019) 1 SCC (L&S) 655]
2. It is now a settled proposition of law that a candidate has a right to be considered in the light of the existing rules, which implies the “rule in force” as on the date consideration takes place. The right to be considered for promotion occurs on the date of consideration of the eligible candidates. [*Deepak Agarwal v. State of U.P.*, (2011) 6 SCC 725, para 26 : (2011) 2 SCC (L&S) 175; *Union of India v. Krishna Kumar*, (2019) 4 SCC 319, para 10 : (2019) 1 SCC (L&S) 655]
3. The Government is entitled to take a conscious policy decision not to fill up the vacancies arising prior to the amendment of the rules. The employee does not acquire *any vested right to being considered for promotion in accordance with the repealed rules in view of the policy decision taken by the Government*. [*K. Ramulu v. S. Suryaprakash Rao*, (1997) 3 SCC 59, paras 12 & 13 : 1997 SCC (L&S) 625; *Shyama Charan Dash v. State of Orissa*, (2003) 4 SCC 218, para 9 : 2003 SCC (L&S) 449; *State of Punjab v. Arun Kumar Aggarwal*, (2007) 10 SCC 402, para 38 : (2008) 2 SCC (L&S) 377; *Deepak Agarwal v. State of U.P.*, (2011) 6 SCC 725, para 28 : (2011) 2 SCC (L&S) 175] There is no obligation for the Government to make appointments as per the old Rules in the event of restructuring of the cadre is intended for efficient working of the unit. [*G. Venkateshwara Rao v. Union of India*, (1999) 8 SCC 455, para 4 : 2000 SCC (L&S) 72] The only requirement is that the policy decisions of the Government must be fair and reasonable and must be justified on the touchstone of Article 14. [*Rajasthan Public Service Commission v. Chanan Ram*, (1998) 4 SCC 202, para 15 : 1998



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SCC (L&S) 1075; *K. Ramulu v. S. Suryaprakash Rao*, (1997) 3 SCC 59, para 15 : 1997 SCC (L&S) 625]

4. The principle in *Rangaiah* [*Y.V. Rangaiah v. J. Sreenivasa Rao*, (1983) 3 SCC 284 : 1983 SCC (L&S) 382] need not be applied merely because posts were created, as it is not obligatory for the appointing authority to fill up the posts immediately. [*Delhi Judicial Services Assn. v. Delhi High Court*, (2001) 5 SCC 145, para 5 : 2001 SCC (L&S) 776].

5. When there is no statutory duty cast upon the State to consider appointments to vacancies that existed prior to the amendment, the State cannot be directed to consider the cases. [*Deepak Agarwal v. State of U.P.*, (2011) 6 SCC 725, para 25 : (2011) 2 SCC (L&S) 175]”

12. In a rare coincidence, the Hon'ble Mr. Justice Pamidighantam Sri Narasimha [as His Lordship then was] as a lawyer appeared in *Deepak Agarwal and another's* case for the Department and had assisted the Court to set the exception to *Y.V. Rangaiah's* case [cited supra], and latter has followed the same while authoring the judgment in *Raj Kumar's* case [cited supra]. In the case in hand, though it was contended that there was a vacancy prior to the amendment to the Rule, it is not the case of the petitioner that he was considered for promotion in the past, at any point of time. As a matter of fact, he was considered only after the amendment came into force, and at that time, it was found that he was not qualified as per the amended qualifications.

13. Accordingly, as observed hereinabove, as a matter of right the petitioner cannot seek promotion in accordance with the old Rules, as the right



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to promotion is not the fundamental right. Hence, this Court does not find any infirmity in the impugned order.

14. In the result, these writ petitions stand dismissed. There shall be no order as to costs. Consequently, connected WMPs are also closed.

25-07-2025

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Index: Yes/No

Speaking order

Internet: Yes

Neutral Citation: Yes/No

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