



W.P.No.35188 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM:

THE HON'BLE Mr. JUSTICE VIVEK KUMAR SINGH

W.P.No.35188 of 2022
and W.M.P.No.34658 & 34660 of 2022

V.S.Pushpanathan

... Petitioner

Vs.

1. The Agricultural Production Commissioner,
and Principal Secretary to Government,
Agricultural Department,
Fort St. George,
Chennai-600 009.

2. The Chief Engineer,
Agricultural Engineering Department,
Nandanam,
Chennai-35

... Respondents

Prayer: This Writ petition has been filed under Article 226 of the Constitution of India, praying to issue Writ of certiorarified mandamus to call for the records of 2nd respondent in connection with impugned order passed by him in Letter No.GE3/11225/2021 dated 18.06.2021 and quash the same and direct the respondents to consider claim of the petitioner for promotion as Assistant Executive Engineer (Agricultural Engineering)



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without referring to the pending criminal case registered in Crime No.10/2012 on the file of the Inspector of Police, Special Investigation Cell Vigilance and Anti-Corruption Magistrate, Vellore (CC.Nos.2/2021 and 10/2021 on the file of the Chief Judicial Magistrate) and promote him as Assistant Executive Engineer and grant him all consequential services and monetary benefits.

For Petitioner : Mr.Venkaramani
for Mr. M. Muthappan

For Respondents : Mr.S.Rajesh
Government Advocate for R1 & R2

ORDER

This Writ Petition has been filed for quashment of the impugned order passed by the second respondent in Letter No.GE 3/11225/2021 dated 18.06.2021 and to direct the respondents to consider claim of the petitioner for promotion as Assistant Executive Engineer (Agricultural Engineering) without referring to the pending criminal case registered in Crime No.10/2012 on the file of the Inspector of Police, Special Investigation Cell Vigilance and Anti-Corruption Magistrate, Vellore (CC.Nos.2/2021 and 10/2021 on the file of the Chief Judicial Magistrate) and promote him as Assistant Executive Engineer and grant him all consequential services and monetary benefits.

2. Heard the learned counsel on either side and also perused the



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entire materials available on record.

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3. The learned counsel for the petitioner would submit that the petitioner, who is an Agricultural Engineering Graduate, entered the service as Assistant Engineer in the Agriculture Department, on 12.05.1998 and his service was regularized from the said date. Learned counsel further submitted that the panel for the promotion for the post of Assistant Executive Engineer has not been prepared from the year 2013 and new panel has to be prepared from 2016-17 onwards. While that being so, the petitioner was implicated in a Criminal case registered in Crime No.10/2012 on the file of the Inspector of Police Special Investigation Cell, Vigilance Anti Corruption Department, Vellore on the ground that the petitioner and others in the scheme of replacing old pump sets for the agriculturists, without replacing the same, misappropriated the value of subsidy payable to the agriculturists. Criminal case was registered against the petitioner for the offences punishable under Sections 120B, 167, 409, 467, 468, 471, 477 A, 420 of IPC and Section 13(2) read with Section 13(1)(C) of the Prevention of Corruption Act. Even though criminal case was registered as early as 2012, charge sheet was filed only on 23.03.2021 and the same has been taken on file as



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Special C.C.No.10/2021 on 23.11.2021 on the file of the Chief Judicial

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Magistrate, Vellore. As the case of the petitioner was not considered for promotion and his name was not included in the panel, petitioner filed W.P.No.7315 of 2021 seeking inclusion of his name in the panel for the year 2020-21 without reference to the Criminal case registered against him. In the said Writ Petition a direction was given to consider the representation of the petitioner and pass orders within thirty days. In compliance of the said direction, petitioner made representation on 08.04.2021 which was rejected by order dated 18.06.2021, impugned in this Writ Petition, stating that panel for the year 2020-21 for promotion to Assistant Executive Engineer has been issued vide G.O.(2D)No.190, Agricultural AA Department dated 18.11.2020 and the petitioner was not in the zone of consideration.

4. The learned Government Advocate appearing for the respondents submitted that a Criminal case is pending against the petitioner and 42 others for the grave allegation of misappropriation in the replacement of old motor pumpsets scheme, for claiming subsidy portions at the Thirupattur Sub-Division of Vellore District. The Vigilance Department has requested sanction of prosecution vide Letter



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No.200/2012/VL, dated 24.04.2015 and the Agriculture Department has directed the second respondent to accord sanction of prosecution on the petitioner and others vide Government Letter No.21202/AA8(2)/2015-14, dated 05.02.2019. In pursuance to the instruction of the Government, the second respondent vide proceedings dated 25.04.2019 has accorded sanction of prosecution to prosecute the Vigilance Department for prosecuting the petitioner and others.

5. He further submitted that as per the direction of this Court in W.P.No.7315 of 2021, the representation of the petitioner was considered and rejected by the second respondent vide impugned order on the grounds that the petitioner was not in the zone of consideration and the name of the petitioner will be considered in accordance with the statutory provisions laid down as and when he reaches his turn for promotion.

6. He further contended that as per Part A in the Schedule XI of the Section 7(1) of the Tamil Nadu Government Servants (Condition of Service) Act, 2016, when no charges have been framed or charge sheet has been filed before the Court, there is no bar for promotion of that particular individual. For promotion, the individual has to reach his turn



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first and then only, all other rule provisions can be invoked. It is not proper to request promotion notwithstanding the pendency of the Criminal case.

7. A perusal of the records reveals that the Criminal case has been registered in the year 2012 and after a lapse of 10 years, the charge sheet has been filed. There is an inordinate delay in the initiation, commencement and conclusion of the Criminal case. Now, we are in the year 2025 and the Criminal case is still pending. Hence, this Court is of the opinion that the Criminal case in Crime No.10 of 2012 on the file of the Inspector of Police, Special Investigation Cell, Vigilance Anti Corruption Department, Vellore, should not be taken up for consideration of promotion.

8. Therefore, the impugned order passed by the second respondent in Letter No.GE3/11225/2021 dated 18.06.2021 is hereby set aside and the matter is remitted to the second respondent for fresh consideration. This Court directs the second respondent to consider the claim of the petitioner for promotion as Assistant Executive Engineer (AE) for the panel of the year 2021-22 without reference to the pending



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Criminal case in Crime No.10 of 2012, on the file of the Inspector of Police, Special Investigation Cell, Vigilance and Anti-Corruption Department, Vellore (CC.No.2/2021 & 10/2021 on the file of the Chief Judicial Magistrate Vellore) and to pass appropriate order in accordance with law, preferably, within a period of 4 months from the date of receipt of a copy of this order.

9. Accordingly, this Writ Petition stands Allowed. No costs. Consequently, connected miscellaneous petition is closed.

29.01.2025

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Index: Yes/No
Neutral Citation: Yes/No

Mr.VIVEK KUMAR SINGH, J.



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To

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