



W.P(MD)No.16144 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on:10.10.2025

Pronounced on:17.10.2025

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP(MD)No.16144 of 2019

and

W.M.P(MD)Nos.12830 and 12831 of 2019

1.R.Baby Shalini
2.P.Jeganath
3.J.Sivakumar
4.P.Shanmugasundaram

... Petitioners

Vs.

The Director,
Department of Horticultur & Plantation Crops,
Ezhilagam,
Chepaukam,
Chennai-5.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned promotion panel in Proc.No.FSE1/6839/2019 dated 12.06.2019 read along with the impugned appointment order in proc.No.FSE1/6839/2019 dated 12.06.2019 issued by the respondent and quash the same and subsequently direct the respondent to fix the final seniority list of Assistant Horticulture Officer in Tamil Nadu Horticulture Department based on Section 35 of the Tamil Nadu State and Subordinate



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Service Rules and consequently, draw the promotion panel after calling for objections from the promotion panel for the year 2019 – 2020 and finalize the same, subsequently based on the promotion panel to grant promotion to the post of Deputy Horticulture Officer.

For Petitioners : Mr.B.Prasanna Vinoth

For Respondent : Mr.J.Ashok
Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned promotion panel in Proc.No.FSE1/6839/2019 dated 12.06.2019 along with the impugned appointment order in proc.No.FSE1/6839/2019 dated 12.06.2019 issued by the respondent and quash the same and subsequently, direct the respondent to fix the final seniority list of Assistant Horticulture Officer in Tamil Nadu Horticulture Department, based on Section 35 of the Tamil Nadu State and Subordinate Service Rules and consequently, draw the promotion panel after calling for objections from the promotion panel for the year 2019 – 2020 and finalize the same, subsequently based on the promotion panel to grant promotion to the post of Deputy Horticulture Officer.

2.Heard Mr.B.Prasanna Vinoth, learned counsel appearing for the petitioners and Mr.J.Ashok, learned Additional Government Pleader



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appearing for the respondent.

3.The petitioners were appointed as Assistant Agricultural Officers in Agricultural Department, in which the Horticulture Department was a part. Since the rule was amended, the petitioners were redeployed from the Agricultural Department to the restructured Horticulture Department. In the Horticulture Department, no new seniority list was drawn, but followed the combined original seniority list which maintained in Agricultural Department. It is the further submission that though new seniority list was drawn on 31.05.2016, since objections were given, no final seniority list was published. The learned counsel appearing for the petitioners would submit that without finalising the seniority list, the respondent has prepared the promotion panel and has granted promotion, which is in contravention of law. Hence, he prays to interfere with the same.

4.The said contention was stoutly objected by the learned Additional Government Pleader and would contend that the restructuring of the Horticulture Department from the Agricultural Department is a policy decision. The respondent has also issued G.O.Ms.No.537, dated 24.12.2007, and based upon the said G.O, those who transferred to the Horticulture Department and have been continuing there for more than 5 years stand



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permanently transferred to that department. It is the further submission of the respondent that the respondent has been maintaining a seniority in accordance with rule and based upon such seniority list, a promotion panel was prepared on 12.06.2019 and subsequently promotions have also been granted. It is the submission of the respondent that the petitioners did not at all come within the zone of consideration. The learned Additional Government Pleader would further submit that though the petitioners would contend that the non-eligible persons have been promoted instead of the petitioners, they did not thought fit to implead such promoted persons. Accordingly, the present writ petition is hit by non joinder of necessary parties. Hence, he prays to dismiss the writ petition.

5.I have given my anxious consideration to the submissions made on either side.

6.In the present case, it is not in dispute that the petitioners were transferred to Horticulture Department, and they have been continuing there for more than 5 years. Therefore, by virtue of G.O.Ms.No.537, these petitioners stand permanently transferred to Horticulture Department. Therefore, the petitioners cannot have any grievance of such permanent transfer which factum is evident that the petitioners did not challenge the



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G.O.Ms.No.537, dated 24.12.2007.

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7.The next contention of the petitioners is that, the respondent, without preparing proper seniority list, has prepared the promotion panel. Though the petitioner had raised such contention, the Additional Government Pleader submitted that the respondent has been maintaining proper seniority list and only based upon such seniority list, promotion panel was prepared and promoted the eligible candidates. It is well settled principles of law that the promotion is not a fundamental right, and only the consideration for the promotion could be claimed as a matter of right.

8.In the case in hand, the petitioners are challenging the promotion panel of the year 2019. According to the respondent, the promotions were effected, and that the petitioners did not come within the zone of consideration. In such scenario, the non-impleadment of those persons whose got promotion is fatal to the present writ petition. In this regard, it is relevant to refer the Hon'ble Supreme Court judgment in ***State of Rajasthan vs Uchhab lal Chhanwal***, reported in ***(2014)1SCC 144***, wherein the Hon'ble Supreme Court, after referring various precedents, ultimately held in Para Nos.10 to 14 as hereunder:

“10. Though some argument was canvassed with regard to the



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relevance of the punishment of censure, yet the said aspect need not be adverted to. On a perusal of the writ petition, the order of the writ court and that of the Division Bench we notice that there were specific averments that juniors placed at Serial Numbers 9, 10 and 11 in the gradation list had been promoted vide order dated 20-8-1997. They have not been arrayed as parties. Needless to emphasise, in the event the order passed by the High Court is affirmed, the persons who are seniors to the respondents in the promotional cadre are bound to become junior regard being had to their seniority position in the feeder cadre. It is well settled in law that no order can be passed behind the back of the person that shall adversely affect him.

11. In this context, we may refer with profit to the decision in *Vijay Kumar Kaul v. Union of India* [(2012) 7 SCC 610 : (2012) 2 SCC (L&S) 491] wherein it has been held thus:

“36. Another aspect needs to be highlighted. Neither before the Tribunal nor before the High Court, Parveen Kumar and others were arrayed as parties. There is no dispute over the factum that they are senior to the appellants and have been conferred the benefit of promotion to the higher posts. In their absence, if any direction is issued for fixation of seniority, that is likely to jeopardise their interest. When they have not been impleaded as parties such a relief is difficult to grant.”

12. After so stating this Court referred to the decision in *Indu Shekhar Singh v. State of U.P.* [(2006) 8 SCC 129 : 2006 SCC (L&S) 1916] wherein it has been held thus: (*Vijay Kumar Kaul case* [(2012) 7 SCC 610 : (2012) 2 SCC (L&S) 491] , SCC p. 620, paras 37-38)



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“37. ... ‘56. There is another aspect of the matter. The appellants herein were not joined as parties in the writ petition filed by the respondents. In their absence, the High Court could not have determined the question of inter se seniority. (Indu Shekhar Singh case [(2006) 8 SCC 129 : 2006 SCC (L&S) 1916] , SCC p. 151, para 56)’

38. In Public Service Commission v. Mamta Bisht [(2010) 12 SCC 204 : (2011) 1 SCC (L&S) 208] this Court while dealing with the concept of necessary parties and the effect of non-impleadment of such a party in the matter when the selection process is assailed observed thus: (SCC pp. 207-08, paras 9-10)

‘9. ... in Udit Narain Singh Malpaharia v. Board of Revenue [AIR 1963 SC 786] wherein the Court has explained the distinction between necessary party, proper party and pro forma party and further held that if a person who is likely to suffer from the order of the court and has not been impleaded as a party has a right to ignore the said order as it has been passed in violation of the principles of natural justice. More so, proviso to Order 1 Rule 9 of the Code of Civil Procedure, 1908 (hereinafter called “CPC”) provides that non-joinder of necessary party be fatal. Undoubtedly, provisions of CPC are not applicable in writ jurisdiction by virtue of the provision of Section 141 CPC but the principles enshrined therein are applicable. (Vide Gulabchand Chhotalal Parikh v. State of Gujarat [AIR 1965 SC 1153] , Babubhai Muljibhai Patel v. Nandlal Khodidas Barot [(1974) 2 SCC 706] and Sarguja Transport Service v. STAT [(1987) 1 SCC 5 : 1987 SCC (Cri) 19] .)



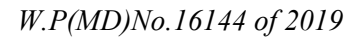
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10. In *Prabodh Verma v. State of U.P.* [(1984) 4 SCC 251 : 1984 SCC (L&S) 704] and *Tridip Kumar Dingal v. State of W.B.* [(2009) 1 SCC 768 : (2009) 2 SCC (L&S) 119], it has been held that if a person challenges the selection process, successful candidates or at least some of them are necessary parties.’’

13. In *J.S. Yadav v. State of U.P.* [(2011) 6 SCC 570 : (2011) 2 SCC (L&S) 140] it has been held as follows: (SCC p. 583, para 31)

“31. No order can be passed behind the back of a person adversely affecting him and such an order if passed, is liable to be ignored being not binding on such a party as the same has been passed in violation of the principles of natural justice.”

14. In the case at hand the dispute relates to promotion which will have impact on inter se seniority. The learned counsel for the respondents assiduously endeavoured to convince us that they are agitating the grievance with regard to their promotion and it has nothing to do with the persons junior to them who had been promoted. Despite the indefatigable effort, we are not persuaded to accept the aforesaid proponent, for once the respondents are promoted, the juniors who have been promoted earlier would become juniors in the promotional cadre, and they being not arrayed as parties to the lis, an adverse order cannot be passed against them as that would go against the basic tenet of the principles of natural justice. On this singular ground the directions issued by the writ court as well as the Division Bench pertaining to grant of promotion to the respondents are quashed. To elaborate, as far as the



(emphasis supplied)

10. In view of the above position, this Court does not find any merits in the present writ petition. Hence, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

17.10.2025

Neutral Citation : Yes/No
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C.KUMARAPPAN, J.

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To
The Director,
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