

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 585 OF 2007

Shri Vishnudas J. Parab,
resident of Bhandarawada,
Palye, Pernem Goa.

... Petitioner

V e r s u s

1. The Director of Animal Husbandry &
Veterinary Services,
Government of Goa,
having office at
Pashusamvardhan Bhavan,
Patto, Panaji Goa.

2. State of Goa,
through its Chief Secretary,
having office at
Secretariat,
Porvorim Goa

3. Shri Deelip Sangodkar,

4. Shri Vinod Raikar,

5. Maya Dessai,

6. Tarazio Menezes,

7. Prasanna Barve,

8. Surekha Sawant,

9. Pramod Gaonkar,
All through the
Director of Animal Husbandry &
Veterinary Services, having
Office at Pashusamvardhan Bhavan,
Patto, Panaji Goa.

... Respondents

Mr. J. Supekar, Advocate for the petitioner.

Mr. M. Salkar, Government Advocate for the respondent nos. 1 and 2.

Mr. A. F. Diniz, Advocate for respondent nos. 3 to 7 and 9.

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Mr. S. N. Joshi, Advocate for respondent no.8.

**Coram:- F. M. REIS &
K. L. WADANE, JJ**

Date :- 26th October, 2015

ORAL JUDGMENT (Per F. M. Reis, J)

Heard Mr. J. Supekar, learned counsel appearing for the petitioner, Mr. M. Salkar, learned Government Advocate appearing for the respondent nos. 1 and 2, Mr. A. F. Diniz, learned counsel appearing for respondent nos. 3 to 7 and 9 and Mr. S. N. Joshi, learned counsel appearing for the respondent no.8.

2. The above petition inter-alia seeks a writ, order or direction, quashing and setting aside the appointment of the respondent nos. 3 to 9 to the post of Veterinary Assistants or in the alternative a writ of mandamus or any other writ directing the respondent no.1 and 2 to withdraw/revoke/cancel the appointment of the respondent nos. 3 to 9 to the posts of Veterinary Assistants.

3. Briefly, the facts of the case as stated by the petitioner are that the respondent nos. 1 and 2 invited applications for filling up of 15 posts of Veterinary Assistants somewhere in June, 2006 and the petitioner based on such advertisement applied for the said post. The oral interviews were held on 28.06.2006 and the petitioner expected a

call for the written test. But however, to the petitioner's surprise, the respondent nos. 3 to 9 came to be appointed to the said posts. It is further the contention of the petitioner that he thereafter applied under the Right to Information Act for certain information and was accordingly informed that 50 marks were allotted for the educational qualifications, out of which 30 marks were allotted for basic educational qualifications. According to the petitioner, out of the balance 50 marks, 15 marks were allotted for oral interviews and the net result was that 30 marks were allotted for the oral interviews. It is further the case of the petitioner that on account of such high percentage of marks reserved for oral interviews, the selection process stands vitiated and is bad in law and as such based on such oral interviews, the candidates who have not figured in the select list have been shown above the petitioner. The petitioner has also pointed out several irregularities in the selection of the respondent nos. 3 to 9. It is contended that the respondent no.3 has been allotted 8 marks for experience for which No Certificates were produced. Similarly, the respondent no.4 possessed only SSC certificate but has been allotted 50 marks on the ground of educational qualifications. So also the respondent no.5 possessed only SSC Certificate and was entitled to only 30 marks but however, he was allotted 50 marks though he has not produced any experience certificate. It is also contended that the respondent no.6 has also been wrongly allotted 50 marks though no experience certificate was produced by such candidate. It is further contended that the

respondent no.8 has actually obtained only 79.50% marks but he was shown to have been allotted 85.50% marks. Similarly, the respondent no.8 has been wrongly granted marks for experience. The respondent no.9 has been granted 50 marks for educational qualifications and experience despite there being no document to support such contention. Pointing out all such irregularities which vitiate the selection process, the petitioner has filed the above petition for the aforesaid reasons.

4. Affidavit in reply came to be filed by Dr. H. Faleiro, being the Director of Animal Husbandry and Veterinary Services on behalf of the State Government. It is the contention of the said respondent that the petition is barred by delay and laches as the petitioner challenged the appointment made in October, 2006 and the petition is filed in October, 2007 which is more than one year. It is further his contention that as in the year 2006, a total of 15 vacancies for the post of Veterinary Assistant were available in the Department of Animal Husbandry. Out of 15 posts available as per the reservation roster, three posts were to be filled up in General category, three posts were reserved in Scheduled Caste category, two posts in Scheduled Tribe category, three posts in Other Backward Class category, one post for Freedom Fighter category, two posts for Physically handicapped category and one post for Ex-serviceman. It is further his contention that a departmental selection committee was constituted to carry out

the selection based on advertisement inviting the applications for the posts of Veterinary Assistants and the selection committee met on 28.06.2006 for the selection of the candidates for such post. He has further pointed out that 35 applications were received, out of which 33 applications were found to be valid but however, only 31 candidates had attended and appeared for the interview on 28.06.2006. A joint assessment chart/report was submitted by the selection committee showing the final merit list and waiting list as mentioned at para 9 of the affidavit. He has further stated that only 8 candidates could be selected and there were no applications for some of the reserved posts and, thereafter, as the need arose a proposal was also submitted to select three more candidates from the waiting list. It is further his contention that though the petitioner appeared for the interview, he was not falling in the merit list prepared by the selection committee and, therefore, the petitioner was not selected for the said post as his performance in the oral interview was poor. He has further stated that the petitioner sought information under the Right to Information Act and accordingly, the petitioner was provided with the necessary information but however, the assessment chart of Veterinary Assistant in General category being Annexure – I provided to the petitioner was a typed copy from the records of the Department. He has further stated that in the said assessment chart, there is a typing mistake in respect of the candidate at Sr. No.4 Kum. Surekha Sawant, respondent no.8 wherein instead of '8 marks, 2 marks' have been typed in column no.7

for experience. He has further stated that he has verified the original records submitted by the selection committee and noticed that the correct marks for experience obtained by Kum. Surekha Sawant, respondent no.8 was 8 marks and not 2 marks as the marks has been wrongly typed in Annexure – I. He has further stated that there is no variation in the total marks and, therefore, she has been correctly selected. He has further pointed out that the alleged discrepancy pointed out by the petitioner in respect of the respondent no.8 has to be ignored. The said respondent further pointed out that more than 15 marks have been allotted for oral interviews which is also without any substance. He has further pointed out that the selection committee has also allotted 10 marks for experience in order to select the efficient candidates with sufficient experience and therefore, no fault could be found in the method adopted while carrying out such selection. It is further his contention that during the interviews, marks were allotted to the candidates on verifying the experience certificates produced by them though they were not retained by the Department. He has also disputed that wrong marks were allotted for educational qualifications of the candidates. He has pointed out that consistently 50 marks have been allotted to all the candidates holding the requisite qualifications except in two cases due to oversight which does not in fact vitiate the selection process.

5. The respondent no.6 has also filed his affidavit in reply

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disputing the contention raised by the petitioner and further pointed out that there is no explanation given by the petitioner as to why the petition has been filed after exorbitant delay as the respondent nos. 3 to 9 had given up their private jobs to accept the appointments to the respective posts. He has further pointed out that the petitioner himself cannot be benefited as between the petitioner and the respondent nos. 3 to 9 there are other persons who are ranked higher than the petitioner and who are not parties to the petition. He has further stated that equal marks have been given for educational qualifications to the respondent nos. 3 to 9. He has further stated that at the time of the interviews, the candidates were asked question as to their experience and whether they had anything to support thereof and based on such question, the candidates had produced experience certificates.

6. Another affidavit came to be filed on behalf of respondent no.8 who has reiterated the same contentions as raised by the respondent no.6. She has also disputed that any illegal method of awarding marks was adopted by the selection committee at the time of the interviews. She has also stated that both the respondent nos. 6 and 8 have been given same 50 marks for educational qualifications. She has also disputed that she has not produced the experience certificate. She has also annexed an experience certificate dated 15.04.2005 issued by Goverdhan Dairy Farm at Gawane, Sattari Goa.

She has also disputed that the marks granted for oral interviews have exceeded 15%. She has also denied that the candidates have been chosen arbitrarily.

7. The petitioner has filed an affidavit in rejoinder inter-alia contending that apart from the persons mentioned in para 6 of the affidavit of the State Government, one Mrs. Shabri Mandrekar, Dy. Director, (Administration) was also present at the time of the interview. He has also stated that the merit list prepared by the respondent nos. 1 and 2 was illegal and the marks granted to the selected candidates therein were also wrong and illegal. He has further denied that there is a typing mistake as indicated in the affidavit of the said respondent in respect of the marks of the respondent no.8 as "two instead of eight ". He has further stated that no marks can be allotted for having the essential qualification for the appointment to the post of Veterinary Assistant and that cannot be the ground not to hold the written test. He has further pointed out that not holding of the written test has resulted in giving unbridled and unguided powers to the respondent nos. 1 and 2 to carry out the selection process arbitrarily. He has further pointed out that it is not permissible for the respondent nos. 1 and 2 to arbitrarily see the experience certificates at the time of the interview without the same being accompanied with the application. He has also disputed the contents of the affidavit of other two respondents namely the respondent nos. 6 and 8. The affidavit in sur-

rejoinder has also been filed by the respondent no.6. The petitioner has also filed an additional affidavit inter-alia contending that after the matter was reserved for judgment, he learnt that the respondent - Department has issued an advertisement dated 13.04.2015 for filling up of 25 vacancies to the post of Veterinary Assistant. He has further stated that out of 25 vacancies, 15 are unreserved and 10 are reserved. He has also learnt that the last date for such application was 08.05.2015 and the age limit for such post is 42 years.

8. We have heard Mr. J. Supekar, learned counsel appearing for the petitioner, Mr. M. Salkar, learned counsel appearing for the respondent nos. 1 and 2, Mr. A. F. Diniz, learned counsel appearing for the respondent nos 3 to 7 and 9 and Mr. S. N. Joshi, learned counsel appearing for the respondent no.8.

9. Mr. Supekar, learned counsel appearing for the petitioner has minutely taken us through the selection chart prepared by the selection committee and pointed out that the marks allotted for experience are illegal as there was no mention that such aspect would be taken into consideration for the purpose of evaluating the candidates in the selection process. The learned counsel further pointed out that such certificates, if any, had to be sought from the prospective candidates at the time of their applications and the very fact that some of the candidates were permitted to produce such certificates during

the course of the interviews would itself suggests arbitrariness in the selection process. The learned counsel has also taken us through the marks allotted to the respondent no.8 to point out how irresponsibly the selection process was conducted. The learned counsel further pointed out that the addition of the marks of the respondent no.8 are wrong and if they are correctly added, the respondent no.8 cannot be a successful candidate whereas the petitioner can be selected in such selection process. The learned counsel further pointed out that there is no justification on record to show the manner in which such experience has been evaluated. The learned counsel further pointed out that some of the candidates have been given 50 marks for educational qualifications whereas some have been given 30 marks which itself shows the casual manner in which the selection process has been conducted by the selection committee. The learned counsel further pointed out that there was no written test and the only manner in which the candidates have been assessed is based on oral interviews. The learned counsel has thereafter taken us through the records to point out that the information received under the Right to Information Act is totally contrary to the allegations made in the affidavit filed by the Director of Animal Husbandry on behalf of the respondent nos. 1 and 2. The learned counsel further pointed out that this Court has to call for the records to examine the veracity of the allegations made therein. The learned counsel as such submits that the petitioner otherwise be permitted to take part in the selection process which is

now in progress by giving relaxation to the petitioner who is otherwise working for 12 years as A. I. Worker in the Goa Dairy and he has three years experience as Farm In-charge. The learned counsel as such points out that the selection of the respondent nos. 3 to 9 be quashed and set aside.

10. On the other hand, Mr. M. Salkar, learned Government Advocate appearing for the respondent nos. 1 and 2 has pointed out that there is no illegality committed by the selection committee and as such there is no reason for interference in the selection conducted by the selection committee. The learned counsel further pointed out that all the terms and conditions have been duly complied with by the selection committee while preparing the merit list. The learned counsel further submits that there is a typing error in the information supplied under the Right to Information Act and as such the petitioner is not entitled to rely upon such mistake in support of his false contention. The learned counsel further pointed out that the respondent nos. 3 to 9 as well as the petitioner have been given 50 marks for the educational qualifications and as such no prejudice has occasioned to the petitioner on that count. The learned counsel further submits that the experience certificates have been produced during the course of the selection process and as such the question of contending that such production has vitiated the selection process is totally farfetched. The learned counsel further points out that the petitioner has failed to dispute the

veracity of the allegations made in the affidavit filed by the Director of the Animal Husbandry on behalf of the respondent nos. 1 and 2. The learned counsel further points out that the selected candidates are in service from the year 2006 and as such any relief granted in favour of the petitioner would cause grave harm and prejudice to such candidates who have given up their private jobs. The learned counsel as such points out that the petition be rejected.

11. Mr. A. F. Diniz, learned counsel appearing for the respondent nos. 3 to 7 and 9 submits that he adopts the submissions of the learned Government Advocate appearing for the respondent nos. 1 and 2. The learned counsel points out that there are no irregularities in the selection process and it cannot be disputed that the experience can be a criteria to evaluate a candidate. The learned counsel further points out that such certificates were produced during the course of the interviews and as such there is no error committed by the selection committee while carrying out the selection process. The learned counsel further submits that grave prejudice would occasion to the respondent nos. 3 to 9 in case they are removed from the services as the said respondents have given up their private practice and taken up the job based on the offer by the respondent nos. 1 and 2. The learned counsel further points out that the respondents are not responsible for any of the alleged irregularities pointed out by the petitioner and as such grave prejudice would occasion to the

respondent nos. 3 to 9 in case any relief is granted in favour of the petitioner as sought by the petitioner in the above petition. The learned counsel as such points out that the petition be rejected.

12. We have considered the submissions of the learned counsel and we have also gone through the records. Before we proceed to examine the rival contentions, we will keep in mind the observations of this Court while disposing of Writ Petition Nos. 78, 79, 91 and 505 of 2013 on 25.03.2014 wherein one of us (F. M. Reis, J) was a party at para 6 which read thus :

“**6.** The seminal principle for selection and appointment has been laid down in the case of **Jitendra Kumar and others vs. State of Haryana and another**, (2008) 2 SCC 161, closely followed in the case of **Director, SCTI for Medical Science & Technology and another vs. M. Pushkaran** (2008) 1 SCC 448 by the Supreme Court and thereafter by our Court.

(a) The rule is that a selectee as such has no legal right to appointment just because his name may appear in the select list. What has been observed is that a notification issued by way of an

advertisement or otherwise is only an intention of the Government to make an offer to the citizens to apply for the posts which are advertised therein. The contract of employment would come into force only when the offer made by the applicant is accepted by the State by virtue of an order of appointment. (see *Pritpal Singh vs. State of Haryana and ors.* (1994) 5 SCC 696)).

(b) For the culmination of the selection process into an order of appointment, settled principles of law which reflect bonafides and fairness as part of a public policy would have to be applied and shown.

(c) Where the process has been duly satisfactorily followed, the appointments would have to be made as per the result of the selection in public interest. Hence, the action of the State to interfere with the good work done by the previous Government solely because of change in regime must be deprecated (see *Jitendra Kumar (supra)* – para 57).

(d) If illegalities have been

committed, the same should be rectified. If a reasonable apprehension is shown in the mind of the State, upon the overall situation, including the post-haste manner in which actions had been taken to cause an inquiry to be made and suspend the process, the decision would not be taken to be arbitrary or unreasonable (see **Jitendra Kumar** (supra) – para 57).

(e) Where no illegalities are apparent and where beneficiaries of irregularities or illegalities could be weeded out, the entire selection process cannot be cancelled (see **Union of India and ors. vs. Rajesh P.U.,Puthuvalnikathu and another** (2003) 7 SCC 285).

(f) Where, however, the beneficiaries of such illegalities or irregularities cannot be identified and some of the candidates will have deserved selection, whilst others will have not, no weeding out would be imperative. The public interest would outweigh the interest of the candidates who were in the wrong. They would be entitled to compete again in the next selection process. (see **Pritpal**

Singh (supra)).

(g) The two views of selection process contained in a written examination and an interview are largely settled to be accepted modes for recruiting the candidates by the Government. A written test would be an objective criteria. The interview would largely be dependent upon a substantive satisfaction of the interviewer. Whereas the former would reflect merit on intellect and knowledge, the latter would be prone and susceptible to the vice of arbitrariness, favouritism, nepotism, etc. Hence:

(i) the guidelines generally followed is to have not more than 15 % of marks for an oral interview since the case of *Mohinder Sain Garg vs. State of Punjab* (1991) 1 SCC 662 in the case of candidates who are fresh from colleges/schools. This would be for the candidates requiring to be appointed in mass appointments to lower cadres such as clerks etc.. Higher posts such as that of Principals/Headmasters/Medical Officers, etc. would necessitate a different selection process, requiring more emphasis on interview to determine their

intelligence and emotional quotients as also personality.

However, percentages for written test and oral interview could vary.

(ii) Twenty percent marks for viva voce as against 80% marks for written test has been held to be in order in case of ***Jasvinder Singh and ors vs. State of J&K and ors.***, (2003) 2 SCC 132.

(iii) Similarly, 50% marks for academic performance and 50% for interview as selection method was held acceptable in the case of ***Azar Ahmad vs. State of Bihar and others***, (1994) 1 SCC 150. The real test was whether the allocation of such marks was with an oblique intention or so arbitrary as capable of being abused and misused in its exercise.

(iv) Similarly for recruitment to the posts of Principals/Headmasters, selection solely based on interview was held to be not *per se* illegal (see *Kiran Gupta and ors. vs. State of U.P. And others* (2000) 7 SCC 719). It was observed that there was no rule of universal application with regard to allotment of percentage of marks for interview

which depends on several factors and the permissible percentage has to be decided on the facts of each case.

(v) In a selection process, upon elimination of the candidates securing lesser than minimum marks and where more than 1200 candidates appeared for the interview for only 54 posts, it was held that the process cannot be vitiated merely on that ground that there was an excessively high percentage of marked for viva voce test. (see *Mohinder Sain Garg vs. State of Punjab and ors.*)

(vi) Similarly fixation of 35% marks for interview to the post of Munsif was accepted and was observed that the same has to be respected (see *State of U.P. v. Rafiquddin*, (1988) 1 SCR 794).

(h) The number of candidates taken up for the interview may be a guide to consider, but the magnitude of the number of candidates interviewed on a specified day cannot *ipso facto* lead to the conclusion that the selection process was a farce and that a fair chance was not given to each candidate (see *Joginder Singh* (supra)) in which only a practical

examination and interview was held to be enough for the Class IV post of learner bookbinder.

(i) Shortlisting of candidates upon any written examination is an accepted mode. Of course, the method of shortlisting as set out in the case of ***B. Ramakichenin vs. Union of India***, (2008) 1 SCC 362) would have to be adopted. This may be adopted even if it is not mentioned in the advertisement.

(j) Though the State has a right to cancel or nullify the selection process since the candidate has no vested right to be appointed upon a mere selection which is only a recommendatory exercise, after the exercise of selection has been done by the Commission or by the Committee by holding a written test, preparing a select list and then communicating it to the Government - "the Government cannot quietly and without good and valid reasons nullify the whole exercise." The State cannot act in an arbitrary manner. The decision not to fill up the vacancies has to be taken bonafide for appropriate reasons and not on

its whims. (see ***Daulatrao V. Rane Sardesai vs. State of Goa, 2013 (2) ALL MR 94***)."

13. The contention of Mr. Supekar, learned counsel appearing for the petitioner that all the candidates including the petitioner were given 50 marks for basic educational qualification and as such the recruitment process stands vitiated. We find that this aspect has been dealt with in the said judgment dated 25.03.2014 wherein it has been observed at para 13 thus :

"**13.** The aforesaid classification of marks does not show that interview was the only criteria, though there was no written examination. The posts were of Bull Attendants, Drivers, Milkmen, Labourers/Workers, Laboratory Attendants, Peons, and Field Assistants. Such posts do not merit written examination. Of course, they are all candidates of lower cadres and hence, only interview is also not merited for such candidates. However, in this case educational qualifications have been given some weightage. Even if a large part of the classification of marks would be for the minimum qualification and

each candidate would obtain those marks, the candidates who are more qualified would obtain higher marks. Hence, *per se* the classification is not wholly erroneous, in view of the aforesaid judgments laying down that there can be no straight jacket formula for percentage of marks reserved for interview and that it may vary from case to case. Similarly, relying upon passing of examination would show some percentage of marks reserved for educational qualification which may suffice to give a candidate an edge in a cadre to which he applied for the government service.”

14. Taking note of the said observations, the said contention of Mr. Supekar, learned counsel cannot be accepted in the facts of the present case. But however, the aspect which can be noticed is that some of the candidates were given 30 marks and some have been given 50 marks. This aspect can be examined in the context of the contention of the learned counsel appearing for the petitioner that the selection committee has not at all applied its mind while carrying out the selection process in accordance with law. The differentiation in giving such marks has not been properly explained by the respondent

nos. 1 and 2. This aspect can be taken into consideration while considering whether the selection process has been conducted by due application of mind or not.

15. With regard to the contention of the petitioner that the respondent no.8 has been given two marks for experience, we find that on perusal of the information submitted by the Public Information Officer as well as the advertisement published by the respondent, the requirement to produce an experience certificate is not disclosed therein. It is the contention of the respondent nos. 1 and 2 in the affidavit that such experience certificates were produced during the course of the interviews. We fail to understand as to how only some candidates were asked for such experience certificates whereas the other candidates including the petitioner were excluded. The manner in which the experience has been assessed or evaluated has not been disclosed in the affidavit. Granting such marks to the candidates without specifying or explaining the criteria to examine the alleged experience of the candidates would itself lead to arbitrariness in awarding such marks. The affidavit filed on behalf of the respondent nos. 1 and 2 is silent as to the criteria adopted to evaluate the marks for the experience of the candidates. What was the nature of the experience expected of the candidates has not been disclosed by the respondent nos. 1 and 2. On perusal of the chart produced on record as Annexure – I supplied under the Right to Information Act, we find

that on account of the experience the respondent no.8 was allotted two marks whereas the petitioner was also allotted two marks but however, the other respondents have been allotted seven, eight and even 9.25 and 10 marks. Though it is well settled that a Writ Petition is not an appeal in disguise over the marks allotted in the selection process nevertheless, we have highlighted the said aspect only to note the manner in which the marks were awarded at the time of interviews by the selection committee during such selection. No doubt, experience is an incident which can be material to evaluate a candidate but however, the candidates have to be uniformly informed about this aspect and the nature of the experience expected so as to enable them to produce such documents along with the application. The surprising aspect is that the affidavit filed by the Director on behalf of the respondent nos. 1 and 2 states that the documents were produced and returned to the respective candidates. This exercise prima facie shows that there was some arbitrariness on the part of the committee whilst carrying out the selection process. It is the contention of the respondent nos. 1 and 2 that there is a typing error in the chart submitted to the petitioner under the Right to Information Act. But however, when we called upon the learned Government Advocate to produce the records or notes of the selection committee which were relied upon by the Director of the Animal Husbandry while swearing an affidavit and inter-alia stating that he has noticed the mistake on perusal of the records and notes prepared by the selection committee, the learned Government

Advocate after taking instructions has pointed out that there are no such records available with the concerned Department. This itself prima facie shows that the contention of the respondent nos. 1 and 2 that there was a typing mistake in the information supplied to the petitioner is an erroneous and false statement which this Court seriously condemn. It is always expected that the affidavit filed on behalf of the State Government should be truthful and reflect the correct facts as reflected in the records of the Department. Filing an affidavit based on some records which are non existence and illusory is to be condemned being a serious lapse and cannot be accepted by this Court. This itself reflects the sorry state of affairs in the concerned department and we shall take a serious view in case it is repeated.

16. Mr. Diniz, learned counsel appearing for the respondent nos. 3 to 7 and 9 has submitted that no fault can be attributed to the said respondents for any mistake committed by the respondent nos. 1 and 2. Admittedly, the selected candidates have been occupying the posts from the year 2006 and the petition has been filed in the year 2007. The fact that such candidates have given up their private jobs to avail of their new posting is not disputed. The petitioner is also admittedly working at Goa Dairy. In such circumstances, we find that setting aside the appointments of the respondent nos. 3 to 9 would not serve the ends of justice on account of delay in approaching this Court for an appropriate relief.

17. Taking note of the said contention of Mr. Diniz, we find as observed herein above, that the beneficiaries of such illegalities or irregularities cannot be identified and some of the candidates will have deserved selection whilst others will have not, no weeding out would be imperative. The public interest would outweigh the interest of the candidates who were in the wrong. They would be entitled to compete again in the next selection process. In the present case, it would not be possible after such a long period of time to find out the actual beneficiaries of the allotment of marks on account of experience. In such circumstances, the petitioner who has been deprived of an opportunity for no fault of his in producing the experience certificate can be considered in the next selection process. In the peculiar facts and circumstances of the case and in the interest of justice, setting aside the appointments of the respondent nos. 3 to 9 would not serve any public interest and in such circumstances, we find that a limited relief can be granted to the petitioner to take part in the subsequent selection process.

18. In such circumstances, on the basis of an additional affidavit filed by the petitioner by an order dated 21.09.2015, we had permitted the petitioner to submit his application for the post of Veterinary Assistant as advertised by the respondent no.2. Accordingly, it is pointed out that the petitioner has already submitted his application for such post. The respondents were also called upon to

grant relaxation of the age limit to the petitioner to enable him to apply for such post. In such circumstances, we find that in the interest of justice and in the peculiar facts and circumstances of the case, it would be appropriate not to interfere with the selection of the respondent nos. 3 to 9 for the aforesaid reasons. But however, the petitioner be considered for the post subsequently advertised referred to in the additional affidavit filed by the petitioner after granting a relaxation of the age limit in accordance with law. This view has been taken as we find prima facie that there were lapses committed in the subject selection process and in peculiar facts of the case as the petitioner has been pursuing his remedy from the year 2007 and the petition has come up for the final hearing in the year 2015.

19. In view of the above, we dispose of the above petition by directing the respondent nos. 1 and 2 to permit the petitioner to apply for the post advertised on 13.04.2015 after giving relaxation of the age limit and participate in the selection process in accordance with law. Rule is made absolute in the above terms with no order as to costs.

K. L. WADANE, J

F. M. REIS, J

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