

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE V.DHANAPALAN

AND

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

W.A.No.2064 of 2011
& M.P.No.1 of 2011

E.Janarthanan

.. Appellant

Vs.

1. The Commissioner,
Animal Husbandry and Medicine Services,
Chennai-600 006.

2. The Tamil Nadu Public Service Commission,
Rep. by Secretary,
Omandurar Government Estate,
Chennai-600 002.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 12.09.2011 made in W.P.No.18120 of 2009 on the file of this Court. Writ Petition filed under Article 226 of the Constitution of India Praying to Issue a Writ of Mandamus directing the respondents to forthwith appoint the petitioner as Research Assistant at Institute of Veterinary and Preventive Medicine, Ranipet.

For appellant : Mr.K.Selvaraj

For respondents: Mr.R.Rajeswaran, Spl.G.P. for R-1
Mr.N.S.Nandakumar for R-2

JUDGMENT

(The Judgment of the Court was delivered by V.Dhanapalan,J)

Heard Mr.K.Selvaraj, learned counsel for the appellant, Mr.R.Rajeswaran, learned Special Government Pleader appearing for the first respondent and Mr.N.S.Nandakumar, learned counsel appearing for the second respondent.

2. The matter in question relates to calling upon the order of the learned single Judge in W.P.No.18120 of 2009, wherein, as to the direction sought for by the appellant/writ petitioner to forthwith

appoint him as Research Assistant at the Institute of Veterinary and Preventive Medicine, Ranipet, the learned single Judge dismissed the Writ Petition by relying upon the communication dated 12.09.2009 of the Commissioner of Animal Husbandry and Veterinary Sciences and held as follows:

"4. On notice from this Court, learned Special Government Pleader produced a copy of the communication sent by the Commissioner of Animal Husbandry of Veterinary Science dated 12.09.2009. In that communication, he was informed as follows:

"The Tamil Nadu Public Service Commission in their Lr.No.5098/OTD-A2-2007 dt.3.12.08 and 15/12/08 selected and allotted 38 candidates for the post of Research Assistant (3 withheld 38+3=41) to this department. The posting orders were issued to the 38 selected candidates allotted by the Tamil Nadu Public Service Commission vide this office Pro.Roc.No.86571/M1/09, dated 23.1.09. All the candidates joined in Institute of Veterinary Preventive Medicine, Ranipet as Research Assistant. Regarding this case, the petitioner's name has not been included in the selection list sent by the Tamil Nadu Public Service Commission for the post of Research Assistant in this department. The reserve list also has not been released and hence the petitioner was not appointed in this department. In the meantime he had filed the writ petition."

5. In support of the said communication, he had also enclosed two D.O. letters sent by the Secretary, Tamil Nadu Public Service Commission, Chennai dated 03.12.2008 and 15.12.2008. The enclosures found in those two letters did not contain any list of reserve list candidates. In the light of the stand taken by the first respondent, the prayer sought for by the petitioner cannot be countenanced by this Court. The writ petition stands dismissed. No costs."

3. Upon hearing the learned counsel appearing for the parties, this Court, on 27.01.2015, observed as follows:

"Heard the learned counsel for the parties. Mr.Nandakumar, learned counsel for TNPSC on written instructions would inform that the reserve list maintained in the recruitment for the post of Veterinary Research Assistant for the year 2006-08 was in operation till 18.12.2009 and it lapsed on that day itself by virtue of drawal of next selection process with fresh recruitment process for the year, 2009 vide Notification dated 25.2.2009. Hence, the existing reserve list does not arise at this point of time.

Counsel had a plea that as there was no counter by the respondents before the Writ Court and the above instruction needs to be filed in a form of sworn statement.

In the light of the above, we place the matter after 2 weeks for filing counter for both respondents."

4. Pursuant thereto, the first respondent has filed counter affidavit reiterating the position stated before the learned single Judge, which has been quoted above and further stated that the appellant had not been included in the selection list sent to the Department of Animal Husbandry and Veterinary Services and the reserve list was also not released; the Government Animal Husbandry Dairying and Fisheries Department, in their letter No.24615/AH7(1)/2010-5, dated 26.03.2012 informed that the reserve list is valid only till the drawal of the next selection list and the next selection for the post of Veterinary Assistant Surgeon was 2007-2008 and the Junior Veterinary Assistant Surgeon 2009 in the Tamil Nadu Animal Husbandry Services had already been drawn and the selected candidates have also been appointed in the concerned post and hence, the reserve list in respect of the post of Veterinary Assistant Surgeon for the year 2006-07 and Research Assistant for the year 2006-08 lost its validity and hence, substitute cannot be allotted from the said reserve list in the place of Research Assistant and may be added to the future estimate of vacancy; as per the Special Rules for the Tamil Nadu Animal Husbandry Service, the recruitment for the post of Veterinary Assistant Surgeon/Research Assistant is made by the TNPSC and allotted to the Department through Government and since the writ petitioner was not selected by the TNPSC, his name did not figure in the list of selected candidates for appointment as Research Assistant and therefore, he was not appointed as Research Assistant in the Department and that 40 persons have joined subsequently in the duty as Research Assistant in the Institute of Veterinary Preventive Medicine, Ranipet and at that time, only one post was kept vacant/with-held; the vacancies caused due to supplemental allotment of the candidates in the place of Research Assistants had to be filled up from the reserve list for the post of Research Assistant and subsequently, it is stated by the TNPSC that as on date, none of the candidates' results have been with-held in the post of Research Assistant for the year 2006-2008.

5. On noticing the above stand of the first respondent, learned counsel for the appellant submitted that in view of the calling upon of the candidates from the reserve list and in view of the efflux of time, the said stand of the first respondent may be recorded and the Writ Appeal may be closed, in view of the exhaustion of the reserve list and the validity of the reserve list also got lapsed.

6. In the light of the above stand of the first respondent and in the light of the submissions made by the learned counsel for the parties, as the reserve list lapsed because of lapse of time, this Writ Appeal is closed, as nothing survives for consideration in the

matter and the above stand of the first respondent is hereby recorded. No costs. The Miscellaneous Petition is closed.

cs

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

Copy to

1. The Commissioner,
Animal Husbandry and Medicine Services,
Chennai-600 006.
2. The Tamil Nadu Public Service Commission,
The Secretary,
Omandurar Government Estate,
Chennai-600 002.

+1 C.C. To MR.K.Selvaraj, Advocate (Sr.No.13328)

+1 C.C. To MR.N.S.Nandakumar, Advocate (Sr.No.14082)

+1 C.C. To Government Pleader, High Court, Madras, (Sr.No.13550)

W.A.No.2064 of 2011

RSK(CO)
sd 20/03/2015

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