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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2574 of 2016

1. Shiv Kumar Patel S/o Nandlal Patel, Aged About 31 Years
Assistant Veterinary Field Officer, Veterinary Dispensary Podi,
Block Masturi, District Bilaspur Chhattisgarh
2. Dharmendra Kumar Patel, S/o Shri Satyanarayan Patel, Aged
About 31 Years, Assistant Veterinary Hospital Tapkara, District
Jashpur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of
Animal Husbandry & Veterinary Services, Mahandi Bhavan,
Mantralaya, New Raipur, Distirct Raipur Chhattisgarh
2. The Director, Directorate Of Veterinary Services, Indravati
Bhawan, Block 3 Ground Floor, Naya Raipur, Tahsil & District
Raipur Chhattisgarh
3. Chhattisgarh Kamdhenu Vishwavidyalaya, Durg, Through The
Registrar, District Durg Chhattisgarh
4. Dean, College Of Veterinary Science And Animal Husbandry
Bilaspur Chhattisgarh
5. Mr. Vinod Kumar Das, S/o Shri Rohit Das, Assistant Veterinary
Field Officer, Present Address, College Of Veterinary Science
And Animal Husbandry, Anjora Durg Chhattisgarh

---- Respondent

And

WPC No. 2544 Of 2016

- Smt. Premlata Naik (Now Patel) W/o Nitin Patel, D/o Shri
Balkrishna Naik, age 30 years, Occupation- Assistant Veterinary
Filed Officer, Artificial Incrimination Center, Baramkela, District-
Raigarh, R/o Village- Saposh, Tah- Dabhara, Distt- Janjgir-
Champa, Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through- Secretary, Department Of
Livestock (Pashudhan) Development Department, Mahanadi
Bhawan, Naya Raipur, Chhattisgarh

2. Director, Veterinary Services, Indravati Bhawan, Ground Floor, Block-3, Naya Raipur, District- Raipur, Chhattisgarh
3. Deputy Director, Veterinary Services, District- Raipur, Chhattisgarh
4. Dean, Govt. Veterinary College, Bilaspur, District- Bilaspur, Chhattisgarh
5. Dharmendra Kumar Patel S/o Satynarayan Patel Aged About 33 Years R/o Village/post- Kotba, Tahsil- Pathalgaon, Distt.- Jashpur Nagar, Chhattisgarh

---- Respondent

For Petitioners in
WPC No.2574 of 2016 and
respondent No.5 in WPC
No.2544 of 2016

Mr. Anand Shukla, Advocate

For Petitioner in
WPC No.2544 of 2016

Mr. Amit Sharma, Advocate

For Respondent /University

Mr. Y.S. Thakur, Advocate

For Respondent /State

Mr. Shashank Thakur, Government
Advocate

For Respondent No.5 in
WPC No.2574 of 2016

Mr. Rajesh R. Singh, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Anil Kumar Shukla

Order On Board by

Prashant Kumar Mishra, J.

29/11/2016

1. Heard.
2. These two writ petitions have been preferred by the in-service candidates, who are presently working as Assistant Veterinary Field Officers, seeking admission into the Bachelor of Veterinary Science and Animal Husbandry Course (in short "B.V.S.C. & AH Course") in the colleges under the respondent –

Chhattisgarh Kamdhenu University.

3. At the request of the State Government, the VYAPAM, Chhattisgarh, conducted a joint entrance examination for admission into the Medical, Dental, Agriculture and Veterinary Colleges throughout the State on 15.06.2016, the result whereof was declared on 24.06.2016. Out of the total number of available seats for BVSC and AH Course, 8 seats were reserved for Departmental candidates. For competing to get admission as Departmental candidates, the employees working as Veterinary Assistant Field Officer are eligible subject to completion of 5 years of regular service on 31.12.2015; obtaining Departmental permission; having good Confidential Reports and; submitting a bond of serving for atleast 5 years in the Department after completion of the course. All the petitioners being eligible to participate applied to their higher authorities i.e. respective Deputy Directors. While petitioners Shiv Kumar Patel and Dharmendra Kumar Patel have been granted such permission before the examination, petitioner Premlata Naik was not informed about any such permission.
4. Be that as it may, all the petitioners appeared in the examination and based on their performance, petitioners Shiv Kumar Patel and Dharmendra Kumar Patel were included in the merit list, however petitioner Premlata Naik did not find place in the merit list for the reasons that the Department had not processed her application seeking permission for appearing in the examination. When the Department issued the first recommendation on 22.08.2016 recommending Shri Devendra

Kumar Dewangan, Mr. Vinod Kumar Das, Mr. K.K. Korram and Ku. Meenakshi Soni and second recommendation on 30.09.2016 recommending Shri Shiv Kumar Patel, Shri Dharmendra Kumar Patel, Smt. Sarika Gangvir and Smt. Snehlata Das, the first petition was preferred by petitioner Premlata Naik on the ground that though she has secured more marks than petitioner Dharmendra Kumar Patel, her name is not included in the recommendations. The second petition by petitioners Shiv Kumar Patel and Dharmendra Kumar Patel was preferred subsequently, because, despite their names being recommended by the Directorate of Veterinary Services, the University refused admission to them on the ground that as on 31.12.2016, they would cross the maximum age limit of 30 years (including relaxation), which is a mandatory condition under the Veterinary Council of India, Minimum Standards of Veterinary Education, Degree Course (B.V.S.C. & A.H.) Regulations, 2016 (in short "the Regulations, 2016") framed by Veterinary Council of India in exercise of powers under Section 66 read with Section 22(1) and 21(1) (b) of the Indian Veterinary Council Act, 1984.

5. Thus, while petitioner Premlata Naik has been refused inclusion in the list on account of non-availability of letter of permission by the concerned department permitting her to appear in the examination, the other petitioners Shiv Kumar Patel and Dharmendra Kumar Patel have been denied admissions on the ground that as on the cut off date, they were over age.
6. Mr. Amit Sharma, learned counsel appearing for petitioner Premlata Naik, would submit that the petitioner having applied

for permission to appear in the examination on 27.01.2016, which was duly forwarded to the Deputy Director, Veterinary Services, Raigarh, who in turn forwarded the same to the Director, Veterinary Services, Raipur and the petitioner having later on informed the Deputy Director, Veterinary Services, Raigarh about the result of the examination, non-issuance of letter of permission is a fault committed by the Department, for which, the petitioner should not be made to suffer. He would further submit that the petitioner is otherwise meritorious and would secure position in the list of OBC candidates.

7. Mr. Anand Shukla, learned counsel for petitioners Shiv Kumar Patel and Dharmendra Kumar Patel, would submit that when the Rules for admission were issued vide Annexure P/8, no age limit was mentioned in clause 19 of the PMT Examination Rules, 2016 (in short "the Rules, 2016"). Similarly, under the previous Regulations of the year 2008 framed by the Veterinary Council of India also, there was no provision prescribing maximum age limit for any candidate much less in-service candidates, therefore, the rules of the game cannot be changed midway to deny admission to the petitioners who have otherwise secured position in the merit list. He would also submit that the Rules, 2016 can only be prospective and not retrospective, therefore, when the fresh Regulations were adopted by respondent University on 01.08.2016, the result of the entrance examination were already out and for this reason, the fresh Regulations would have no application.

8. Per contra, Mr. Y.S. Thakur, learned counsel for respondent-

University, would contend in respect of petitioners Shiv Kumar Patel and Dharmendra Kumar Patel in WPC No.2574 of 2016, that the University having adopted the Regulations, it is bound to follow the norms, failing which, the University may face adverse action by the Veterinary Council of India. He would also submit that two other over age candidates, who were recommended on 22.08.2016, were granted admission by the Anjora College by inadvertence, without properly verifying their credentials in respect of age, but no action has been taken against such candidates because of pendency of the present writ petitions.

9. Mr. Shashank Thakur, learned Government Advocate, would defend the Government's action in WPC No.2544 of 2016 filed by petitioner Premlata Naik on submission that the petitioner should have been vigilant for obtaining letter of permission before appearing in the examination, which she has failed to do, therefore, she cannot shift the blame on the State authorities. He would also submit that petitioner Premlata Naik has also failed to submit the required bond for serving in the Department for a period of 05 years after obtaining the degree and for this reason also, she is not entitled for admission in the University. Mr. Thakur has further reiterated the stand taken by the University in the other writ petition .

10. Mr. Anand Shukla, learned counsel appearing for respondent No.5 (Dharmendra Kumar Patel) in WPC No.2544 of 2016 would adopt the reply submitted by the State in the said writ petition.

11. Mr. Rajesh R.Singh, learned counsel for respondent No.5 Vinod

Kumar Das in WPC No.2574 of 2016, would adopt the arguments raised by the University and the State. He would also submit that even if the petitioners' contentions are accepted, the admission granted to respondent No.5 would be safe. In the event of dismissal of the writ petition, he would submit that respondent No.5 having already been admitted, his admission cannot be cancelled, because, he was not at fault nor he has withheld any information from the State Authorities or from the University at the time of taking admission.

12. In the first writ petition (WPC No.2544 of 2016) preferred by petitioner Premlata Naik, her non-inclusion in the list of recommended candidates is on account of non-issuance of letter of permission by the Department. While the petitioner contends that she moved the application before the Deputy Director, Raigarh, which in turn was forwarded to the Director, Veterinary Services, Raipur, as stated in para 2 of the return, the respondents would submit that the petitioner was not vigilant in pursuing the application before appearing in the examination.

13. Admittedly, the Department has not framed any Regulation nor any Executive Instruction has been issued as to the manner in which the permission would be granted to a Departmental candidate and the requisites thereof before appearing in the examination. It appears the application was moved before the concerned Deputy Director, Veterinary Services, Raigarh, who in turn forwarded the same to the Director, Veterinary Services, Raipur for issuance of letter of permission before the

examination. Thus, once a Departmental candidate applies for such permission, it is for the Department to deal with the same and take decision one way or the other before examination.

14. If a candidate has appeared in the examination and there was no order by the Department denying such permission, the petitioner cannot be expected to do anything more than what was required of her. If the Department sat tight over the matter and failed to pass necessary orders either allowing or refusing permission and at the same time, applications moved by other candidates have been dealt with and necessary orders were passed, the blame squarely fall on the Department and not on the petitioner.

15. In the considered opinion of this Court, petitioner Premlata Naik should have been treated as Departmental candidate while sending recommendation to the University in accordance with the merit position.

16. In the second writ petition i.e. WPC No.2574 of 2016 preferred by Shiv Kumar Patel and Dharmendra Kumar Patel, the refusal by the University to admit them despite their names having been recommended by the Director, Veterinary Services, is on the ground that they have crossed the maximum age limit as per clause 6 of the Regulations, 2016. However, the said Regulation has come into force from the date of its publication in the Official Gazette i.e. 12.07.2016 and the same has been adopted by the respondent- University on 01.08.2016. However, much before these two dates, the examinations were already over and the results were declared.

17. Admittedly, neither in the Examination Rules, 2016 or in the Regulations 2008, any maximum age limit is prescribed for admission into the B.V.S.C and A.H. Course.
18. In the matters of **State of Bihar and others Vs. Mithilesh Kumar, 2010 13 SCC 467, P. Mahendran and others Vs. State of Karnataka and others, AIR 1990 SC 405** and **Hemani Malhotra Vs. High Court of Delhi, (2008) 7 SCC 11**, the settled position has been reiterated by the Supreme Court that the rules pertaining to a particular selection which were applicable on the date of advertisement would hold the field and any subsequent amendment in the rules would not apply to any pending selection process.
19. Although the present petition pertains to admission into a professional course, but the principle would be the same. A candidate who was qualified and eligible on the date of appearance in the examination cannot be declared ineligible or disqualified only on the basis of any amendment in the Rules or under freshly promulgated Rules, which was issued after the entrance examination was over.
20. Since these two writ petitioners have been denied admission only on this ground but were otherwise included in the list of recommended candidates by the Director, Veterinary Services, Raipur, the petitioners deserve consideration on merits by treating them as eligible candidates.
21. In the result, both the writ petitions are disposed of with direction to the Director, Veterinary Services, Raipur, to consider

the candidature of all the three candidates while preparing the fresh merit list for recommendation to the University for admission into the BVSC and AH Course 2016.

22. Let fresh list of recommended candidates be prepared in accordance with merit within a period of one week from today and thereafter, all the candidates shall be required to complete the formalities, if not yet completed, within a further period of 15 days.

Sd/-
Judge
(Prashant Kumar Mishra)

Sd/-
Judge
(Anil Kumar Shukla)

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