

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.12.2016

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

WP.No.587 of 2011

A.Mandjiny

.. Petitioner

Vs

1.Pondicherry Veterinary College Society,
Rep. by its Chairman,
Kurumbapet,
Puducherry 605 009.

2.The Dean,
Rajiv Gandhi College of Veterinary & Animal Sciences,
Pondicherry Veterinary College Society,
Kurumbapet,
Puducherry.

3.Z.Rajasekar ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, calling for the records on the file of the second respondent relating to the impugned order dated 28.12.2010 bearing Ref.No.A.12012/11/2010-11/E1/RAGACOVAS and quash the same in as much as it relates to the third respondent herein and consequently, direct the respondents 1 and 2 to promote the petitioner as Farm Assistant with effect from 28.12.2010 with all service and monetary benefits, back wages and grant arrears with interest at 18% per annum.

For Petitioner : Mr.Bharathchakravathy
For M/s Sai, Bharath & Ilan

For Respondents : Mr.Syed Mustafa
GP [Pondy] for R1, R2

O R D E R

The petitioner has filed the present Writ Petition challenging the impugned order dated 28.12.2010 passed by the second respondent bearing Ref.No.A.12012/11/2010-11/E1/RAGACOVAS and to direct the respondents to promote the petitioner as Farm Assistant with effect from 28.12.2010 with all service and monetary benefits, back wages and grant

arrears with interest at 18% per annum.

2. Learned counsel for the petitioner would submit that the post of Farm Assistant is filled by way of promotion, from the post of Farm Attendant and the third respondent herein was given promotion to the post of Farm Assistant on 28.12.2010. Learned counsel further contended that the petitioner, who is senior to the third respondent herein in the seniority list for promotion to the aforesaid post, was not given promotion. Therefore, the petitioner challenges the impugned order dated 28.12.2010, as the petitioner is entitle for promotion with effect from the date of promotion of the third respondent i.e., on 28.12.2010 with all service, monetary benefits and back wages along with arrears at the rate of 18% p.a.

3. On contrary, learned counsel for the respondents would submit all the four Farm Attendants were considered for promotion to the post of Farm Assistant in the Departmental Promotion Committee convened on 20.12.2010. The Departmental Promotion Committee was informed that except the third respondent herein, who acquired a degree under Open University system after having passed SSLC and the educational qualification in respect of others have to be relaxed. Therefore, the said Committee has considered the other candidates for granting relaxation, who appeared for SSLC and failed in the SSLC. The writ petitioner has passed VIII standard. Therefore, the petitioner was not considered for the aforesaid promotion post.

4. The Departmental Promotion Committee, who is the competent authority recommended promotion for the other three persons for the post of Farm Assistant, by considering the qualification of the candidates. The Writ Petitioner, who possess educational qualification of VIII standard could not be considered, for want of vacancy by the Committee. Since the other candidates are possessed higher qualification than the petitioner, they were considered for promotion. Hence, the impugned order passed by the second respondent is perfect and valid in law.

5. On the submission made by the learned counsel for the petitioner that as per Notification dated 12.08.2010, the recruitment rules were notified in the Supplementary Gazette dated 21.09.2010. In the aforesaid Notification, the educational qualification and other qualification prescribed for the post of Farm Assistant are as follows:

"Promotion is from the grade of Farm Attendant with 8 years of regular service in the grade.

Note : The regular employees who are in service on the date of notification of recruitment rules will be considered for promotion in relaxation of educational qualifications prescribed for direct recruits, provided they should have gained experience, as prescribed."

6. The petitioner's name was not considered because, the petitioner has possessed the educational qualification as VIII standard. However, the third respondent had appeared for SSLC examination, but failed. Therefore, his name was considered by the said Committee and he was promoted to the post of Farm Assistant.

7. In the light of the submissions, it is apparent that the petitioner's educational qualification is VIII standard. It is for the first respondent to consider the petitioner for relaxation of the educational qualification. The first respondent has power for granting relaxation of educational qualification as per Notification. Therefore, the impugned order passed by the second respondent cannot be contended as illegal and violation of rules.

8. Taking into consideration that the petitioner is having experience in the said Department, the Writ Petition is disposed of with a direction, directing the petitioner to make an application before the first respondent for granting of relaxation within a period of two weeks. On receipt of the said application, the first respondent is directed to consider and pass appropriate orders for granting relaxation of the educational qualification for consideration in the next vacancy for promotion to the post of Farm Assistant. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gya

To

1.The Chairman,
Pondicherry Veterinary College Society,
Kurumbapet,
Puducherry 605 009.

2.The Dean,
Rajiv Gandhi College of Veterinary & Animal Sciences,
Pondicherry Veterinary College Society,
Kurumbapet,
Puducherry.

+1cc to M/s.Sai Bharath & Ilan, Advocate sr.74678

WP.No.587 of 2011

cp(co)
ss(1/2/2017)