

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 10.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. No.11735 of 2014

and

M.P.No.2 of 2014

1 R.KUMARAVEL

2 P.TAMILMANY

3 K.RAVICHANDRAN

4 R.PACKIARAJ

5 N.RAJMOHAN

6 P.JOSEPH

7 S. RAMESH

8 S.RAJAKUMAR

9 K.SARAVANAN

... petitioners

Vs

1 THE REGISTRAR

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

ADDITIONAL CITY CIVIL COURT BUILDINGS

HIGH COURT CAMPUS CHENNAI

2 THE SECRETARY

UNION PUBLIC SERVICE COMMISSION DHOLPUR

HOUSE SHAHJAHAN ROAD NEW DELHI

3 THE UNION TERRITORY OF

PUDUCHERRY REP BY ITS CHIEF SECRETARY TO

GOVT GOVT OF PUDUCHERRY CHIEF SECRETARIAT

PUDUCHERRY

4 THE UNION TERRITORY OF
PUDUCHERRY REP BY ITS SECRETARY TO GOVT
ANIMAL HUSBANDARY AND ANIMAL WELFARE DEPT OF
RURAL DEVELOPMENT CHIEF SECRETARIAT
PUDUCHERRY

5 THE UNION TERRITORY OF
PUDUCHERRY REP BY ITS SECRETARY TO GOVT
DEPARTMENT OF PERSONAL AND ADMINISTRATIVE
REFORMS CHIEF SECRETARIATE PUDUCHERRY

6 THE DIRECTOR
O/O THE DIRECTORATE OF ANIMAL HUSBANDARY AND
ANIMAL WELFARE DEPT PUDUCHERRY ... Respondents
Writ Petition filed under Art.226 of the Constitution of
India praying for a Writ of Certiorarified Mandamus to call for
relevant records relating to impugned recruitment rules to the
post of Assistant Veterinarian issued by the Govt of Puducherry
dept of Rural Development(animal Husbandary) Group-C posts
issued in G.O.Ms.No.10/AH dated 08.09.2005 in respect of the
column No.11 & 12 and consequential impugned order of dismissal
issued in O.A.No.1123/2010 dated 06.12.2013 passed the 1st
Respondent herein and quash the same as arbitrary unreasonable
improper illegal against the Rules and Regulations of the
respondents in violation to the principles of Natural Justice
and fundamental rights guaranteed under the constitution of
India and thereby to incorporate in column No.11 25% by direct
recruitment and 75% by promotion, failing which direct
recruitment and to incorporation in column No.12 as promotion
from the care of attendants and field man with 10 years of
regular service in the respective cadres by fixing 80:20 ratio
in the recruitment rules to the post of Assistant Veterinarian
issued in G.O.Ms.No.10/AH dated 8.9.2005 including fixing scale
of pay as per the rules and regulations contemplated in the pay
rules followed by the respondents without further delay,
consequentially to promote the petitioners to the post of
Assistant veterinarian under the 6th respondent depart with all
consequential monetary and other service benefits within time
framed.

For petitioner : Mr.S.Srinivasan

For Respondents : Mr.Syed Musthafa,
for respondents 3 to 6

O R D E R
(made by K.K.SASIDHARAN, J.)

This Writ Petition is directed against the order dated 6 December 2013 in O.A.No.1123 of 2010, dismissing the original application filed by the petitioners for a declaration that Column Nos.11 and 12 of Recruitment Rules for promotion to the post of Assistant Veterinarian issued by the Government of Puducherry in G.O.Ms.No.10/AH is null and void and to incorporate certain amendments to the recruitment rules.

The background:-

2. The petitioners filed the original application on the ground that on account of the recruitment rules published in G.O.Ms.No.10/AH dated 8 September 2005, their promotional opportunities for the post of Assistant Veterinarian has been reduced considerably. The petitioners therefore wanted suitable amendment to the recruitment rules.

3. The respondents 3 to 6 contended before the Tribunal that the petitioners are all working in the post of Attendants and their next promotional post is Maistry (Group D) and thereafter, they would be considered for promotion to the post of Fieldman. Their case would then be considered for further promotion as Assistant Veterinarian. According to the Government, the petitioners wanted to take a jump from the post of Attendant to the post of Assistant Veterinarian, which is not permissible.

4. The Tribunal dismissed the original application as devoid of merits. The Tribunal observed that the matter being in the domain of policy, it is not possible to direct the Government to amend the recruitment rules. Feeling aggrieved, the petitioners are before this Court.

Submissions:-

5. The learned counsel for the petitioners contended that the act of the respondents giving promotion to Fieldman as Assistant Veterinarian is highly irrational. According to the learned counsel, before amalgamating and re-designating the post, the petitioners, being the mostly affected class, were not heard. The learned counsel further submitted that the Government is in the process of amending the recruitment rules notwithstanding the dismissal of the original application and as such, appropriate direction should be given.

6. We have also heard the learned Special Government Pleader on behalf of the respondents 3 to 6.

Analysis:-

7. The petitioners filed the original application for a direction to the Government to amend the recruitment rule to the post of Assistant Veterinarian by incorporating the post of Assistant Fieldman as feeder post. In short, the petitioners wanted multi level jump from one lower level post to a superior post, as a matter of right.

8. The petitioners are working as attendants. Before amendment to the recruitment rules, promotional avenues for the post of Attendant (Grade D) were Maistry, Fieldman and Livestock assistant. There was a further promotion from the post of Live Stock Assistant to Live Stock Supervisor, which was done purely by way of promotion. After the amendment, attendants with four years of experience are eligible to be promoted to the post of Maistry, Grade D. Next avenue of promotion is to the post of Fieldman, and Attendants with 9 years of regular service would be considered for such promotion. The next cadre is Assistant Veterinarian which would be filled up 25% by promotion from the cadre of Fieldman with 12 years experience and 75% by direct recruitment. The recruitment rules provide that for promotion to the post of Assistant Veterinarian, under the promotion quota, Fieldman should have completed 12 years of regular service. The Government by way of this particular amendment, wanted to avoid multi level jump that was available to the post of Attendant.

9. The petitioners have no vested right to claim that recruitment rule should always be favorable to them and they should be permitted to make a jump from a lower post to a higher post even without the minimum qualifying service.

10. The Supreme Court in P.U.Joshi and ors. vs. Accountant General, Ahmedabad and ors., (2003(2) SCC 632), indicated the extent of judicial review in matters relating to conditions of service.

The Supreme Court said :-

"10 ... Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation / abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution

of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service". जयते

11. The petitioners have no statutory or constitutional right to seek direction to the State to amend the recruitment rules to suit their convenience. We are therefore of the view that the Tribunal was perfectly correct in dismissing the original application. We do not find any error or illegality in the said order, warranting interference, by exercising judicial review. However, we make it clear that this order would not stand in the way of the Government initiating action to revise the recruitment rules, in accordance with law.

12. The Writ Petition is dismissed with the above observation. No costs. Consequently, M.P.No.2/2014 is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

tar

To

- 1 THE REGISTRAR
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- 6 THE DIRECTOR
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ANIMAL WELFARE DEPAT PUDUCHERRY

+1cc to Mr.Srinivasan, Advocate, S.R.No.8775
+1cc to the Government Pleader, S.R.No.9524

ALA(CO)
RS(08/03/2017)

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