

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.25856 and 37364 of 2016 and
and WMP.Nos.22155, 32021 and 32022 of 2016

1.A.Veeramuthu
2.T.Selvam
3.N.Jayadevan
4.M.Jaya
5.P.Venkatesh Kumar
6.K.Palanisamy

... Petitioners in W.P.No.25856/2016

1.A.Govindaraju
2.P.Sekar
3.D.Chandran
4.M.Arumugam
5.P.Maniyan
6.T.Rajkumar
7.N.Murugesan
8.V.Saraswathi
9.R.Gopalakrishnan
10.S.Subramani
11.B.Savil
12.S.Nagaraj
13.K.Raja
14.R.Devarajan

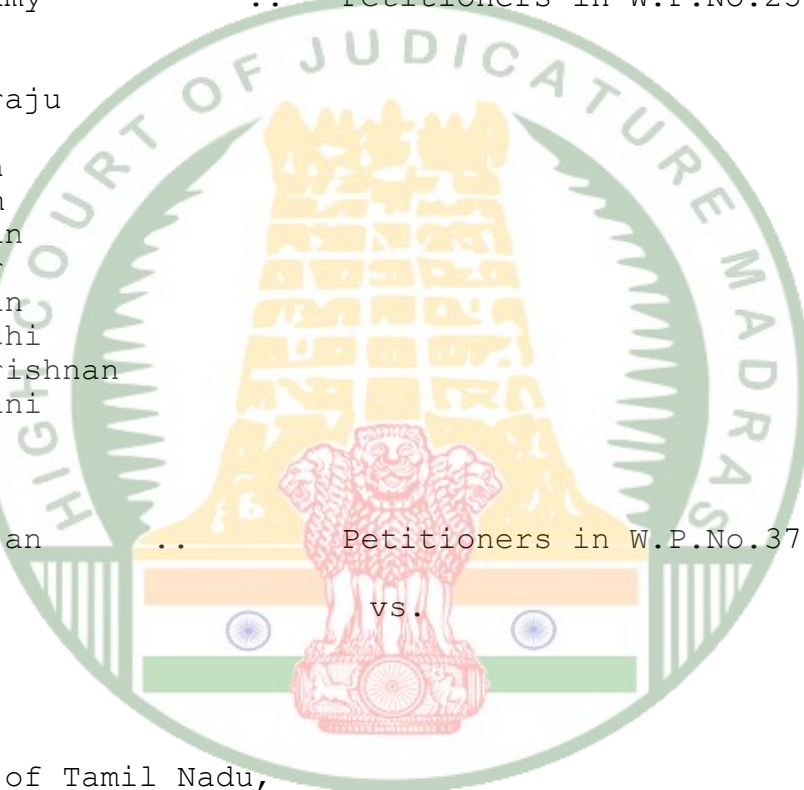
... Petitioners in W.P.No.37364 of 2016

vs.

1.The State of Tamil Nadu,
Rep by Secretary to Government,
Animal Husbandry and Fisheries Department,
Fort St.George,
Chennai-600 009.

.. 1st Respondent in W.P.No.25856/2016

2.The Commissions of Milk Products and
Dairy Development, Rep by Commissioner,
Madhavaram, Chennai-600 051.



3.The General Manager,
Salem District Milk Producers Union Ltd.,
Chittanoor, Thalavaipatty,
Salem-636 302.

.. Respondents 2 and 3 in
W.P.No.25856 of 2016 and

Respondents 1 and 2 in
W.P.No.37364 of 2016

Prayer in W.P.No.25856 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the third respondent herein to permit the petitioners herein to appear for the Written Test scheduled to be held on 27.07.2016 pursuant to the Employment Notification dated 05.02.2016 of the third respondent in Advertisement No.8/2016 for the post of Extension Officer Grade -II and consequently, select and appoint the petitioners taking into account their experience in the 3rd respondent Cooperative Milk Producers Union.

Prayer in W.P.No.37364 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for all the connected records in the impugned orders in Rc.No.10655/2016/M2-(1) dated 19.9.2016 (received on 4.10.2016) of the first respondent and to quash it and consequently to direct the first respondent to instruct the 2nd respondent to fix a date in due course for conducting the written test afresh for the 14 petitioners and to attach them also for verification of records and oral test etc for fair play.

For Petitioner : Mr.Venkataswamy Babu
in W.P.No.25856 of 2016

Mr.R.Sethu Pandian
for M/s.A.L.Namasivayam
in W.P.No.37364 of 2016

For Respondents : Mr.L.P.Shanmugasundaram
Special Govt. Pleader for R1
in W.P.No.25856 of 2016

Mr.T.K.Ashok Kumar
for R2 and R3 in W.P.No.25856 of 2016
for R1 and R2 in W.P.No.37364 of 2016

C O M M O N O R D E R

By consent, both these writ petitions are taken up for final disposal.

W.P.No.25856 of 2016

2.1. The Petitioners are numbering 6 and the first petitioner has sworn to the affidavit on his behalf and on behalf of other petitioners and also stated about the service particulars of the petitioners and would further state that all of them had applied for Extension Officer Grade II post within the time limit on 24.02.2016 and as per the notification dated 05.02.2016 of the third respondent in Advertisement No.8/2016, 13 vacancies have to be filled up and the petitioners had downloaded the application form from the website of the third respondent and as per the downloaded application, they have to enclose the following:

- i. Self attested Xerox copies of certificates.
- ii. Self addressed envelope - 3 Nos. (Size 27 x 11 cm)
- iii. Self addressed post card.

It is further stated by the petitioners that as per the notification, candidates working in Milk Producers Co-operative Societies in the area of operation of the Salem District Co-operative Milk Producers Union Ltd., [i.e., Salem and Namakkal District] only can apply for the post and others need not apply. The petitioners were under the fond hope that they will be issued with Hall Ticket for written test scheduled to be held on 27.07.2016 and however, they have not received the same and whereas, other candidates were issued with Hall Tickets for the written examination. The petitioners, in this regard, approached the third respondent and they were orally informed that since they have not enclosed the Experience Certificate and Board Resolution, their candidature for the written test have not been considered and therefore, they came forward with this writ petition.

2.2. The petitioners, pending disposal of the writ petition, filed WMP.No.22155 of 2016, praying for appropriate direction directing the third respondent to permit them to appear for the written test scheduled to be held on 27.07.2016 for the post of Extension Officer Grade -II pursuant to the employment notification issued by the third respondent and this Court, vide order dated 25.07.2016, passed an interim order directing the

third respondent to permit the petitioners to appear for the written test scheduled to be held on 27.07.2016 by issuing Hall Tickets and also indicated that any further order to be passed by the third respondent is subject to the result of the writ petition.

2.3. The third respondent has filed a counter affidavit stating among other things that even in the notification itself it has been clearly mentioned that the additional information in application format and other details such as qualifications prescribed for the post, age and other details and mode of selection are available in website, namely www.aavinmilk.com and that all the filled in application complete in all aspects along with Xerox copies of required documents should be sent to "The General Manager", Salem District /third respondent either by registered post or speed post on or before 24.02.2016 and as per the additional information and instructions to the candidates in Sl.No.2 of the application, it has been clearly stated that the filled in application complete in all aspects along with Xerox copies of required documents particularly mark sheet and enclosures as mentioned in Sl.No.8 should be sent to the address mentioned in the advertisement either by Registered post or Speed post on or before the last date and it is further indicated that "List of documents to be produced at the time of Certificate Verification / Oral Test (if applicable)" and as per one of the conditions, the employee should produce Experience Certificate issued by the Board of the Milk Producers Cooperative Society concerned. It is further stated in the counter affidavit that out of 144 applications received from the employees of Milk Producers Cooperative Societies, after scrutiny, only 11 applicants are eligible for the post of Extension Officer Grade-II and 7 applicants for the post of Junior Executive (Office) on account of the fact that the said applicants had enclosed Experience Certificate as stated above and therefore, hall tickets were sent to them, calling upon them to appear before the Certificate Verification Committee for Certificate Verification with originals followed by written examination on 27.07.2016.

2.4. In sum and substance, it is the stand of the third respondent that since the writ petitioners did not enclose the Experience Certificate as per the notification, they were not called for certificate verification/oral test and therefore, prays for dismissal of the writ petition.

W.P.No.37364 of 2016

3. The petitioners are similarly placed as that of the petitioners in W.P.No.25856 of 2016 and it is their stand that as far as the enclosure of Experience Certificate is concerned, it is to be done by the respective Milk Producers Cooperative Societies after due verification of the records and admittedly it has not been done so and therefore, they have been unjustly denied the opportunity of participating in the selection process and therefore, they have come forward with this writ petition.

4. The respective learned counsel appearing for the petitioners have drawn the attention of this Court to the typed set of documents and would submit that admittedly in the downloaded application form, there is no requirement as to the documents to be enclosed, more particularly Experience Certificate issued by the concerned Board and also disputed the fact that there is additional information available in the respondent's website and since there are sufficient number of vacancies available, they may be allowed to participate in the selection process.

5. Per contra, the learned Standing Counsel appearing for the respondents has drawn the attention of this Court to the counter affidavit filed in W.P.No.25856 of 2016 and would submit that one of the essential condition is to enclose Experience Certificate and admittedly, the petitioners did not enclose the same along with the application and therefore, they were not called for Certificate Verification/Oral Test and in respect of candidates who have enclosed all the documents, they were called for written examination and results were not declared on account of pendency of the writ petition. The learned Standing Counsel appearing for the respondents, on instructions, would submit that in respect of candidates who have participated in the written examinations, results of the same may be directed to be published and in respect of the petitioners are concerned, fresh notification with all the particulars will be issued and thereafter, the petitioners shall participate in the selection process and therefore, prays for appropriate orders.

6. This Court considered the rival submissions and also perused the entire materials placed before it.

7. The third respondent issued notification dated 05.02.2016

inviting applications for the following posts:

Extension Officer Grade -II
Junior Executive (Office)
Junior Executive (Lab)/Technician (Lab)
Technician (Operation)
Technician (Refrigeration).

As per Annexure-I to the application, the mode of selection has been prescribed and as per Clause 8, the following list of documents to be produced at the time of Certificate Verification and it is relevant to extract the same:

- i. Evidence of Date of Birth
- ii. Community Certificate from the competent authority (ie. Life Card)
- iii. Evidence of Educational Qualifications (SSLC/HSC/Diploma/Degree/PG Degree or Provisional certificate etc.) with Mark Sheets.
- iv. The employee should produce Experience Certificate issued by the Board of the Milk Producers Co-operative Society concerned. This certificate should be based on the records of the society.
- v. Evidence of Tamil qualification (viz. SSLC/HSC/Degree/Certificate for having passed Tamil conducted by the Tamil Nadu Public Service Commission).

8. It is the submission of the learned counsel appearing for the petitioners that admittedly, in the downloaded application form, there is no information as to the enclosure of the testimonials/documents and therefore, the petitioners were not aware of the same and therefore, attention of this Court was also drawn to one such application issued by the Villupuram-Cuddalore District Co-operative Milk Producers' Union Ltd., Villupuram wherein there is a column stipulating the enclosure of relevant documents numbering 7. It is the stand of the third respondent that even in the website i.e., www.aavinmilk.com, additional information/instructions to candidates is given and it appears that the applicants were not aware of the same and they have not also not downloaded those instructions.

9. It is pertinent to point out at this juncture that it is an in-house selection and therefore, enclosure of Experience Certificate is one of the essential condition and it is the stand of the petitioners that due to inadvertence, they have not enclosed the Experience Certificate, though they have fulfilled

all the eligible criteria. It is the submission of the learned counsel appearing for the petitioners in W.P.No.37364 of 2016 that it is for the concerned Board to forward the Experience Certificates as they are in possession of the same, in the considered opinion of this Court, the said submission is liable to be rejected for the reason that the Board/Society in which the petitioners are working have to forward the Experience Certificate. Admittedly, all the petitioners did not enclose the Experience Certificate and in the light of the stand taken by the learned counsel appearing for the petitioners that they possess all the required educational qualification and they may be afforded with one more opportunity to participate in the selection process, this Court is of the view that since the learned Standing Counsel appearing for the respondents 2 and 3, on instructions, submitted that leaving out the candidates whose applications are complete in all aspects and who have been allowed to participate in the written examination, there are 7 vacancies available as on today and they are going to issue fresh advertisement, the following order would meet the ends of justice:

(a) In respect of the candidates, whose applications are complete in all aspects and who are permitted to participate in the written examinations held on 27.07.2016, results of the same and further process may go strictly in accordance with the norms.

(b) The third respondent, in respect of 7 vacancies available for the post of Extension Officer Grade-II and Junior Executive (Office), shall release fresh advertisement calling for applications from the in-house candidates within a period of three weeks from the date of receipt of a copy of this order and the said advertisement should also indicate in the information/instructions to the candidates as well as documents to be enclosed along with the application form and upon release of the advertisement, it is open to the petitioners to submit their applications to the said posts and thereafter, the third respondent shall proceed with the selection process strictly in accordance with law and declare the results as expeditiously as possible.

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10. These writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government,
The State of Tamil Nadu,
Animal Husbandry and Fisheries Department,
Fort St. George,
Chennai-600 009.
2. The Commissioner
The Commissions of Milk Products and
Dairy Development,
Madhavaram, Chennai-600 051.
3. The General Manager,
Salem District Milk Producers Union Ltd.,
Chittanoor, Thalavaipatty,
Salem-636 302.

+1 cc to Mr.Venkataswamy Babu Advocate sr 3776
+1 cc to Government Pleader sr 3769
+2 ccs to Mr.AL.Namasivayam Advocate sr 3235
+1 cc to Mr.T.K.Ashokkumar Advocate sr 3220

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W.P.Nos.25856 and 37364 of 2016

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