

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION (TR) NO.699 OF 2017

Date: 19.07.2017

Between:

Dr M.Anil Kumar, S/o Sangaiah, Aged about 33 years,
Occu: Veterinary Assistant Surgeon, O/o Veterinary
Dispensary, Papannapet (P&M), Medak District,
R/o Papannapet, Medak District.

.... Applicant/ Petitioner

AND

The State of A.P., rep.by its Principal Secretary,
Animal Husbandry, Dairy Development and
Fisheries Department, Secretariat, Hyderabad
and others.

.... Respondents



The Court made the following:

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ORDER:

In pursuant to the recruitment notification issued by the Government to fill up the post of Veterinary Assistant Surgeon, petitioner participated in the selections and based on his performance, he was selected and appointed as Veterinary Assistant Surgeon. He accordingly joined service on 05.05.2011. While so, on 25.03.2013, show-cause notice was issued to the petitioner under Rule 17(ii) of Andhra Pradesh State and Subordinate Service Rules, 1996 (Rules, 1996), as to why his services should not be terminated on the ground that he does not possess the valid qualification to be appointed as Veterinary Assistant Surgeon. Not satisfied with the explanation, the Director passed orders on 15.06.2013 terminating the services of the petitioner. Aggrieved thereby, petitioner filed O.A.No.5044 of 2013 before the Andhra Pradesh Administrative Tribunal, since transferred to this Court.

2. The A.P.Administrative Tribunal, by order dated 05.07.2013, granted interim suspension of the proceedings dated 15.06.2013 and the respondents were directed to continue the petitioner as Veterinary Assistant Surgeon till decision to be taken by the Indian Veterinary Council on the letter addressed by the Middlesex University on 07.01.2013. Aggrieved thereby, respondents filed counter-affidavit and sought vacation of the interim suspension.

3. Heard Sri J.Sudheer, learned counsel for petitioner and learned Government Pleader for respondents.

4. Learned counsel for petitioner submits that the post of Veterinary Assistant Surgeon is governed by A.P.State Animal Husbandry Rules, notified vide G.O.Ms.No.54, Animal Husbandry and Fisheries (AH-I), dated 06.06.1996. The post of Veterinary Assistant Surgeon is organized as Category-6 of Class-A of the service in the Department. According to the qualifications prescribed in Rule 6, a person possessing Bachelor Degree in Veterinary Science, or its equivalent qualification from any recognized University/Institution in India or Abroad is eligible to compete to the post. The same qualifications are reiterated in the recruitment notification. According to the learned counsel, petitioner possessed the qualification as prescribed and that the Middlesex University, where he prosecuted the Veterinary Science Course was recognized by the Royal College of Veterinary Sciences, United Kingdom and, therefore, he holds valid qualification and thus, the show-cause notice and the consequential order are not sustainable. He submits that petitioner cannot be described as quack as he also holds valid degree. He further submits that there is no suppression of his eligibility in securing employment and in fact, wrong statement is made in the order terminating the services of the petitioner. Petitioner has produced relevant documents in support of his eligibility and only after ascertaining the eligibility, petitioner was appointed.

5. Learned counsel further submits that the degree awarded by the Middlesex University is recognized by the Royal College of Veterinary Surgeons, which is an august body of United Kingdom and degrees awarded by the Middlesex University are recognized

and, therefore, petitioner holds a valid degree. Even otherwise the Royal College of Veterinary Surgeons requested all the Asian countries to accord recognition and to notify the qualification of Veterinary Science Degree awarded by the University as valid. Letter was also addressed to the President of Indian Veterinary Council and this issue is pending consideration by the Indian Veterinary Council. It appears that no decision is taken so far rejecting the proposal of Middlesex University and, therefore, at this stage, it cannot be said that the qualification possessed by the petitioner is not valid qualification.

6. Learned Government Pleader submits that the profession in Veterinary Science field is regulated by the Indian Veterinary Council Act, 1984. Unless a person registers himself under the Indian Veterinary Council Act, he is not entitled to practice including seeking public employment in the same field. Further, the qualifications required by a person to practice in the field of Veterinary Sciences are also stipulated by the Act, 1984 and unless a person possessed requisite qualification as required in the Act, he cannot function as Veterinary Assistant Surgeon. In support of his contention, he relied on Sections 16 and 30 of the Act, 1984. According to the learned Government Pleader, the Foreign Veterinary University Institutions are shown in the Second Schedule appended to the Act and unless Foreign Institution is shown in the said schedule, it cannot be said that degree awarded by such University/College can be treated as valid degree.

7. Learned Government Pleader further submits that Bachelor of Veterinary Science course in India is of five years duration,

whereas course prosecuted by petitioner in England was of three years duration and, therefore, cannot be treated as equivalent to the course of study imparted in India. At the relevant point of time, petitioner was only a Probationer and, therefore, by invoking Rule 17 of the Rules, 1996, the impugned decision was taken.

8. Basic facts are not in dispute. The Middlesex University, where petitioner prosecuted his course of study is not included in the Second Schedule appended to the Act, 1984. According to Section 30 of the Act, no person, other than a registered Veterinary Practitioner, can hold office as Veterinary Physician or Surgeon or any other like office in Government or in any institution maintained by a local or other authority. It is not in dispute that petitioner has not registered as Veterinary Surgeon. For the purpose of registering as Veterinary Surgeon, basic qualification is required. According to Section 15 of the Act, the Veterinary Degrees granted by any Veterinary Institution in India which are included in the First Schedule shall be recognized as valid veterinary qualification for the purpose of this Act. According to Section 16, the Veterinary Degree granted by the veterinary institutions outside India which are included in the Second Schedule shall be recognized as valid veterinary qualification for the purpose of this Act. Thus, a person can be holding valid veterinary qualification if such degree was awarded to him by any of the institutions in India and list of which is enclosed in the First Schedule or a Degree awarded by Foreign institution/ University, which are shown in the Second Schedule to the Act. Petitioner prosecuted his course of study in United Kingdom. The Second Schedule contains seven institutions of United Kingdom.

The Middlesex University is not one of the institutions mentioned in the Second Schedule. The degree obtained by the petitioner is not one which is recognized as per the Act. Thus, the qualification possessed by the petitioner is not the recognized qualification. Unless a person holds valid degree as per the Act, he cannot register as Practitioner and cannot prosecute even public employment.

9. Learned counsel for petitioner sought to emphasize that as per the table appended to Rule 6 of the Rules governing service, what was prescribed is only equivalent qualification from any recognized university/institution in India or Abroad and the Middlesex University is one of the recognized universities and, therefore, degree awarded by the Middlesex University is one of the recognized degrees in terms of the provision contained in recruitment rules and thus, merely because the same is not incorporated in the Second Schedule of the Act would not make him ineligible and action of the respondents is illegal.

10. Relevant entry of Rule-6 of A.P.Animal Husbandry Service Rules, reads asunder:

Rule 6: Qualifications: No person shall be eligible for appointment to the posts mentioned in Column (2) of the following table by the method specified in column (3) unless he/she possesses the qualifications and requirements mentioned in corresponding entry in column (4) thereof.

Sl. No.	Posts	Method of recruitment	Qualification and Requirements
(1)	(2)	(3)	(4)
6	Veterinary Asst. Surgeon (Class-A)	By direct recruitment	Must possess a Bachelor's Degree in Veterinary Sciences and Animal Husbandry or its equivalent qualification from any recognized University/ Institution in India or abroad

11. At the first blush, the said contention appears formidable, but on closer look at the provision, it is clear that what is required as valid educational qualification is that a person must have obtained qualification from Foreign University/institution, which is recognized. Requirement of possessing degree from the recognized university/institution as mentioned in table appended to Rule 6 has to be understood inconsonance with the provision contained in the Act. Act clearly mentioned that unless the foreign university/institution is included in the Second Schedule, degree awarded by such university/institution cannot be treated as valid equivalent degree. Thus, entry contained in the table appended to Rule 6 of the Special Rules has to be read inconsonance with the requirements of the Act. Even assuming that what is contended by the learned counsel is valid and that there is some ambiguity in the rule, a bare look at provision contained in Section 30 of the Act would make it clear that to register as Veterinary Practitioner under the Act, he must have qualifications as required by Section 15 or Section 16 of the Act, 1984. Thus, even assuming that there is some ambiguity in the provision, it has to be understood inconsonance with the statutory mandate and on harmonious reading of the rules and provisions of the Act, the conclusion is irresistible that unless a person possesses requisite qualification recognized by the Indian Veterinary Council Act, such qualification is not valid.

12. Thus, petitioner was not having valid qualification as required to hold the post of Veterinary Assistant Surgeon. I, therefore, see no illegality in the decision, terminating the

services of the petitioner. Writ Petition (TR) is dismissed accordingly.

Miscellaneous petitions if any pending shall stand closed.
There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

Date : 19.07.2017
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