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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5566 OF 2018**

Girish Singh Patel S/o Shri Umashanker Patel Aged About 34 Years Presently Working As Assistant Veterinary Field Officer, in the O/o Artificial Insemination Centre (A I C) Akaltara, District Janjgir - Champa R/o Akaltara, Jawahar Para, Gali No. 3, Police Station Akaltara District Janjgir Champa Chhattisgarh.

---- Petitioner**Versus**

1. The State of Chhattisgarh Through The Secretary Livestock And Development Department Mantralaya New Raipur Chhattisgarh.
2. The Director Veterinary Services, Indravati Bhawan Ground Floor, Block -3, New Raipur Chhattisgarh.
3. Veterinary Council Of India Through Secretary 2nd Floor, August Kranti Bhawan Bhikaji Cama Palace, New Delhi- 110066.
4. Kamdhenu University Through Vice Chancellor Durg Chhattisgarh.
5. The Central Board Of Secondary Education (CBSE) Shiksha Kendra 2, Community Centre, Preet Vihar Delhi - 110092.
6. Medical Council Of India Through Chairman Near Pocket 14, Phase 1, Near Mother Dairy, Dwarka Sector 8, Delhi – 110077.
7. Higher Education Department Through Secretary Mahanadi Bhawan New Raipur Chhattisgarh.

---- Respondents**WPS No. 5832 OF 2018**

Reema Nandi D/o Late Khagendra Chandra Nandi Aged About 30 Years Presently Working As Assistant Veterinary Field Officer, In The O/o Outline Dispensary (OLD), Palli, District Narayanpur, R/o Main Road, Bakhrupara, Police Station Narayanpur, Narayanpur Chhattisgarh.

---- Petitioner**Versus**

1. The State of Chhattisgarh Through The Secretary Livestock And Development Department Mantralaya New Raipur Chhattisgarh.
2. The Director, Veterinary Services, Indravati Bhawan Ground Floor, Block- 3, New Raipur Chhattisgarh.
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Bhikajji Cama Palace, New Delhi - 110066.

4. Kamdhenu University Through Vice Chancellor, Durg Chhattisgarh.
5. The Central Board Of Secondary Education (CBSE) Shiksha Kendra -2, Community Centre Preet Vihar Delhi - 110092.
6. Medical Council Of India Through Chairman Near Pocket 14, Phase 1, Near Mother Diary, Dwarka Sector 8 Delhi – 110077.
7. State Of Chhattisgarh, Through Secretary Higher Education Department Mahanadi Bhawan New Raipur Chhattisgarh.

---- Respondents

For Petitioner	: Shri Sunil Kumar Soni, Advocate.
For Respondent/State	: Shri Prafull N. Bharat, Additional Advocate General.
For Respondent No.4	: Shri A.S. Kachhawaha, Advocate.
For Respondent No.5	: Shri T.K. Tiwari, Advocate.
For Respondent No.6	: Shri Aman Tamboli, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

28/09/2018

Per Ajay Kumar Tripathi, Chief Justice

1. Heard counsel for the parties.
2. There are two writ applications. In both writ applications, the grievance of the petitioners are the same, therefore, both have been clubbed together and heard together.
3. The origin of the present dispute relates to non-declaration of the result of these petitioners by the Central Board of Secondary Education (hereinafter referred to as 'CBSE'). The examination in question is known as NEET-2018 and the qualification in the said examination also facilitates admission into what is known as Veterinary Sciences and Animal Husbandry Degree in a University.
4. The result of these petitioners have been withheld by the CBSE as per their

stand because the Ministry of Agriculture and Farmers Welfare (Department of Animal Husbandry, Dairying and Fisheries) and the Veterinary Council of India has issued a Regulation dated 08.07.2016 laying down the parameters, under which, admissions as per the minimum standards of bachelor educations i.e. Bachelor of Veterinary Science and Animal Husbandry Degree Course (hereinafter referred to as 'B.V.Sc. & A.H.') would be regulated.

5. We are concerned about Regulation 6, which is a part of Part-III of Regulation 2016 and deals with admission to Bachelor of Veterinary Science and Animal Husbandry degree course. Regulation 6 reads as under:-

“Part III

Admission to the Bachelor of Veterinary Science and Animal Husbandry Degree Course

6. Criteria for admission.- A candidate shall not be admitted to Bachelor of Veterinary Science & Animal Husbandry Degree course unless,

(a) he or she has completed the minimum age of 17 years and the maximum age of 25 years on or before the 31st December of that year of his or her admission to the 1st year of Bachelor of Veterinary Science and Animal Husbandry Course; and there shall be relaxation of maximum age by 5 years for Scheduled Caste or Scheduled Tribe or other Backward Class candidates.

emphasis supplied

(b) he or she has passed the qualifying examination as defined under these regulations with the subjects of Physics, Chemistry, Biology or Biotechnology and English (as a core course) and obtained marks as specified under regulations (7) or an examination equivalent to intermediate science examination of an Indian university or Board recognised by the Association of Indian Universities taking Physics, Chemistry and Biology including a practical test in each of these subjects and English.”

6. Stand of the counsel for the CBSE therefore is that they are governed and guided by the Regulation 2016 and the Regulation itself lays down the minimum and maximum age in relation to an eligible candidate for grant of admission in the

course of B.V.Sc. & A.H. It is the above Regulation, which has come in the way of the CBSE in declaring the result of the petitioners before this Court. They are all beyond the age of 25 years as prescribed.

7. So far so good, the position emerging from the Regulation and the embargo created therein surely justifies the CBSE not to declare results of the candidates who are overage, but the story does not end there. After the Regulation 2016 and the corresponding decision and notification to hold NEET examination even for admission into B.V.Sc. & A.H. course, all candidates have to participate in the examination, qualify and get a right for admission into a University. The problem for the petitioners have here arisen because they are not fresh students, who have passed out from a school and want to make a career in the Veterinary Science. These petitioners are departmental candidates meaning thereby that they are already in service and employment of the State of Chhattisgarh and they too have to earn a degree of B.V.Sc. & A.H. course to further earn a promotion from the post of Assistant Veterinary Field Officers to Veterinary Assistant Surgeons.

8. The State of Chhattisgarh while exercising power under Article 309 of the Constitution of India made a rule, which is known as “Chhattisgarh Veterinary (Gazetted) Recruitment Service Rules, 2011 (hereinafter referred to as “Rules, 2011”). Since other provisions of the Rules, 2011 are not relevant for the present issue, we confine ourselves to Rule 14, which is reproduced for ready reference :

“14. Conditions of eligibility for promotion.-

(1) Subject to the provisions of sub-rule (2) the committee shall consider the cases of all persons who on 1st day of January of that year had completed such number of years of service (whether officiating or substantive) in the posts, from which promotion is to be made as specified in column (2) of Schedule- IV or any other post or posts declared equivalent there to by the Government and are within the zone of consideration in accordance with the provisions of sub-rule (2).

Explanation- Method of calculation for eligibility for promotion- The calculation of the period of qualifying service

on 1st January of the relevant year in which the Departmental Promotion Committee/Selection Committee is convened shall be counted from the calender year in which the public servant has joined the feeder cadre/part of service/pay scale of the post and not from the date of joining of the cadre/part of service/pay scale of the post.

(2) The name of public servants in requisite number for each cadre shall be considered for the purpose of inclusion of his name upto 25 percent of number of public servant included in the selection list or that of two public servant, whichever is more, to fill the unexpected vacancies during above said duration apart from expected vacancies under sub-rule (2).

(3) Promotion shall be made in accordance with the reservation roster prescribed by the Government.

(4) Other provisions of Chhattisgarh Public Service (Promotion) Rule, 2003 and the directions issued by the General Administration Department from time to time will be applicable for making promotion.”

9. The Rules, 2011 also has Schedules attached thereto and the relevant Schedule for the present cases is Schedule IV, which reads as under:-

SCHEDULE-IV (See rule 14)				
Name of the Service or post from which promotion is to be made	Minimum Service/experience for promotion	Name of the service or post on which promotion is to be made	Name of member of the Departmental Promotion Committee	Remarks
(2)	(3)	(4)	(5)	(6)
Additional Director, Veterinary Services	3 year	Director, Veterinary Services	(1) Chief Secretary-Chairman (2) Agriculture Produce Commissioner and Principal Secretary, Animal Wealth Development Department-Member. (3) Secretary, Government of Chhattisgarh Animal Wealth Development Department Member.	
Joint Director, Veterinary Services	5 year	Additional Director, Veterinary Services	(1) President of Public Service Commission or Member Nominated by the President-Chairman. (2) Secretary, Animal Wealth Development Department-Member. (3) Director, Veterinary Services-Member.	
Deputy Director, Veterinary Services	3 year	Joint Director, Veterinary Services	(1) President of Public Service Commission or Member Nominated by the President-Chairman.	

			(2) Secretary, Animal Wealth Development Department-Member. (3) Director, Veterinary Services-member	
Veterinary Assistant Surgeon	12 year	Deputy Director, Veterinary Services	(1) President of Public Service Commission or Member Nominated by the President-Chairman. (2) Secretary, Animal Wealth Development Department-Member (3) Director, Veterinary Services-Member.	
Assistant Veterinary Field Officer	Should have passed Graduation Examination in Veterinary Science from Departmental Candidate Capacity with-5 years Service Experience.	Veterinary Assistant Surgeon	(1) President of Public Service Commission or Member Nominated by the President -Chairman. (2) Secretary, Animal Wealth Development Department-Member. (3) Director, Veterinary Services-Member.	
Assistant Statistics Officer	5 years	Assistant Director, (Statistics)	(1) President of Public Service Commission or Member Nominated by the President-Chairman. (2) Secretary, Animal Wealth Development Department-Member. (3) Director, Veterinary Services-Member.	

10. From a reading of Rule 14 in conjunction with Schedule IV, it is evident that an Assistant Veterinary Field Officer after having worked in that capacity for five years can earn a promotion to the next higher promotional post i.e. Veterinary Assistant Surgeon provided he has passed the graduate examination in Veterinary Science as a departmental candidate. For departmental candidates, the maximum age limit have been fixed as 35 years and this is evident from Annexure P/2, which was initially issued by the State of Madhya Pradesh, but since then have been adopted even by the State of Chhattisgarh by corresponding notification dated 09.01.2017 (Annexure P/3).

11. Since qualifying in the examination of B.V.Sc. & A.H. course is mandatory for the Assistant Veterinary Field Officers and since there is no other method of gaining admission into any University without participation in the NEET examination now, these petitioners who are departmental candidates and holding

the post of Assistant Veterinary Field Officers, also sat in the NEET-2018 examination, but then, their fate stands sealed by non-declaration of their results by the CBSE, the body which conducted such an examination.

12. The question which arises for consideration is whether the Regulation 2016, especially, Regulation 6 should be allowed to come in the way of declaration of results of such departmental candidates. If Regulation 6 is allowed to stand alone, then no departmental candidate can ever earn his next avenue of promotion and beyond, because a degree in Veterinary Science is mandatory.

13. Further, as already discussed earlier, there is only one mode of conduct of examination across the Country and even departmental candidates have to participate in the said common entrance examination, therefore, it is held and declared that Regulation 6 will not come in the way of declaration of the result of a departmental candidate. Regulation 6 is mandatory and binding with regard to such students or examinees, who are fresh out of school and would like to pursue a degree course in B.V.Sc. & A.H. course. But for the purpose of departmental candidates, the maximum age should be read as 35 years instead of 25 years, which has been talked about in Regulation 6 or else the Rules relating to promotion will become redundant and all future prospects of such departmental candidates will get barred if not thwarted for all times.

14. The Respondent-Union of India, especially, the Veterinary Council of India therefore are directed that they will bring about corresponding amendment to Regulation 6 and clarify that for departmental candidates, the age limit will be 35 years or the age so notified by the State Governments and for them, Regulation 6 fixing upper age limit as of 25 years will not apply, so that such disputes and litigations do not arise in the future.

15. Let Veterinary Council of India give appropriate direction in this regard to the CBSE and the CBSE, in turn, will also make appropriate provision in the application form or declaration that a particular candidate is a departmental candidate to distinguish them from the other candidates for whom 25 years is the upper age limit.

16. So far as the present litigations are concerned, keeping in view the above interpretation, which is required to bring harmony between the Regulation 2016 and Rules, 2011, the results of these petitioners will be declared by the CBSE within a period of one week from today. Subject to the result or performance of these petitioners, their eligibility and right for admission into the concerned course in the College/University would be decided.

17. Keeping in view the peculiarity of the facts and circumstances of the case, which has come in the way of these petitioners, the Court directs that the Veterinary Council of India as well as the State of Chhattisgarh will make provisions for their admission beyond the cut-off date after the declaration of the result by the CBSE. The cut-off date so fixed will not come in the way for begetting admission to these petitioners provided that they have also qualified and are successful in the NEET-2018 examination.

18. Both the writ applications stand allowed in terms of the above.

Certified copy today.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE