

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2018

CORAM

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.19083 of 2008 and
M.P.Nos 1 & 2 of 2008

R.Jagatheesan

.. Petitioner

Versus

1. The State of Tamil Nadu rep. by its
Special Commissioner-cum-Secretary
to Government, Animal Husbandry Dairying
and Fisheries Department, Chennai - 9

2. The Director of Veterinary Services,
Chennai-6

.. Respondents

Prayer: This Writ petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records connected with the G.O.Ms.No.181, Animal husbandry Dairying & Fishieries (AH) Department, dated 07.11.2007 of the 1st respondent and quash the same inrespect of the condition No.I in para 4(1) and direct the respondents to select and depute the petitioner for live stock inspector training for the year 2007-2008 along with others if necessary by relaxing the condition.

For Petitioner :Mr.G. Elanchezhiyan

For Respondents :Mrs. Thangavadan Balakrishnan

ORDER

The petitioner has filed the writ petition to call for the records connected with the G.O.Ms.No.181, Animal husbandry Dairying & Fishieries (AH) Department, dated 07.11.2007 of the 1st respondent and quash the same inrespect of the condition No.I in para 4(1) and direct the respondents to select and depute the petitioner for live stock inspector training for the year 2007-2008 along with others if necessary by relaxing the condition.

2.The learned counsel for the petitioner would contend that

he was called for the interview through employment exchange for the post Assistant in Animal Husbandry Department on 06.01.1989 and was selected for the said post. The Government also issued a sanctioning order pursuant to which he was appointed as Animal Husbandry Assistant on 16.12.1989 and his services was also regularized. He was continuing his work, till the date of filing this writ petition as Animal Husbandry Assistant (i.e) from 1989 onwards without any further promotion in the regular line. The petitioner claims that he is entitled for promotion to the post of live stock Inspector and post of assistant and necessarily he had to attend the Live Stock Inspector Training. Meanwhile, the Government has issued G.O.Ms.No.22, Animal Husbandry and Fisheries Department dated 15.02.2004 and decided to depute 125 candidates for live stock inspector training at Orathanadu Farm, wherein 10% of the vacancies were reserved for Departmental candidates.

3.It is the case of the petitioner that he is a qualified person and eligible for deputation for the said training and he also made an application to the respondents with the recommendations of his superior officer. Even though, he was qualified the petitioner was not selected for the said training as per the above said G.O. and the juniors of the petitioner were selected for the training.

4.Thereafter, the Government issued another G.O.M.S.No.92, Animal Husbandry & Fisheries Department, dated 01.08.2002 and had decided to depute persons to the live stock inspector training, but the said selections was cancelled by the respondent.

5.The learned counsel for the petitioner would further contend that after a lapse of 5 years the Government issued another order in G.O.No.181, Animal Husbandry Department dated 07.11.2007 and as per this G.O 425 candidates were to be sent for training through employment Exchange and also through the Department. In the said G.O the terms and conditions for the departmental candidate was as follows:

- i. Five years service should have been completed by the employee.
- ii. Those who have been joined duty before 08.12.1989 should have passed SSLC and those who have appointed after 08.12.1989 should have passed +2 (H.S.C) Examination.
- iii. Should have declared his probation satisfactorily.
- iv. He Should not be faced any charges or any department proceedings.

v. Should have obtained 10 years of remaining service after completion of live stock inspector training.

vi. Exception to the departmental candidates from the payment of tuition fees Rs.1,500/-

6. The petitioner counsel would further contend that he has passed S.S.L.C examination in the year 1996 and he is qualified for the above said condition No.2 and ought to have considered under the 10% of the qualified departmental candidates. Since, the juniors were called for the interview he immediately sent a representation to the respondent to consider his name as per the Government Order No.181 dated 07.11.2007. Even though he was appointed in the year 1989, the officers have orally stated that he was not appointed prior to 08.12.2009 and due to lack of educational qualification that he was not selected for the said training.

7. The petitioner counsel would further contend that even though he was called for interview on 06.01.1989, and he has issued an letter for selection on 11.11.1989 to the 2nd respondent. However, the appointment order was issued late and he was appointed on 16.12.1989, there is lapse of nearly 11 months for which the petitioner cannot be held responsible. The persons who were appointed immediately after the selection (i.e) within 15 days, where as the appointment order for the petitioner was delayed by the respondents and there is no fault on the part of the petitioner for which he was penalized. If the appointment order was issued earlier he would be qualified and the fault committed by the Government has caused hardship to the petitioner and he would also submit that there are some vacancies for the said training and he sought for a prayer to consider him for the said representation.

8. This Court has also granted an interim order directing the respondents to consider the case of the petitioner and the respondents should permit the petitioner to attend the said training and notice was also ordered but, the respondents did not comply with the said order and the petitioner had also filed the contempt petition and the contempt petition was closed subsequently.

9. The learned counsel for the petitioner would also contend that they tried to re-open the petition but the fate of it was not known to the petitioner and the Department has filed a counter stating that the petitioner has not completed S.S.L.C and he has not qualified for the same. In the similar petitions this Court has directed the petitioners to undergo the said training.

10. The petitioner has filed a vacate stay petition along

with the counter affidavit and the respondents had stated that whenever the post of post of Live Stock Inspector Training is required the petitioner's representation will be considered by way of issuing necessary orders to that effect and this is not a programme to be conducted every year. The second condition imposed in the said G.O is that the petitioner should pass S.S.L.C and those who have appointed after 08.12.1989 should have passed +2 (H.S.C) Examination but the petitioner passed S.S.L.C in the year 1996. Hence, he was not eligible to be selected for the said training and no other conditions was informed regarding the selection process. . As per the G.O.No.22, 85% of the candidates should be selected through employment exchange and 10% should be employment exchange and 5 % to the exservice men category, but the department had cancelled the training in the year 2002. The Government issued another G.O.No.181 dated 07.11.2007, wherein it is stated that the condition imposed in the G.O.No.22 that 10% should be selected through employment exchange and 5% through exservice men category remains unchanged and over all 425 candidates should be sent for the said training. The said 10% quota reserved to departmental candidates will apply only to those who who have been joined duty before 08.12.1989 should have passed SSLC and those who have appointed after 08.12.1989 should have passed +2 (H.S.C) Examination. Since the petitioner did not posses any one of the criteria at that point of time he was not eligible for training.

11.The learned counsel for the petitioner submits that the petitioner attended the said interview for the post of Animal Husbandry Assistant on 06.01.1989, but he was issued appointment order on 24.01.1989 itself where as the petitioner case only the respondent has issued an appointment order only on 16.12.1989 for which the petitioner in any way not responsible, hence it is seen that the similarly placed persons are allowed to attend the training but, the petitioner was not allowed is not reasonable.

12. The learned counsel for the respondent would also contend that if the vacancy arises the petitioner will be considered. Since, the petitioner was not eligible at that point of time he was not sent for the training and the said conditions were imposed only as per the policy decision of the Government that 10% of the Departmental candidates were selected for the said training.

13.The learned counsel for the petitioner produced the Judgment in W.P.No.(MD) No.3308 of 2007 [2013(3) MLJ 56] where in it is stated that the petitioner has appointed on 26.03.2003 and a G.O.No.259/Financial dated 06.08.2003 has been passed in 06.08.2003 and this Court has rendered the Judgment that the

G.O.No.259 dated 06.08.2003 will not be applicable to the petitioner even though the petitioner had joined duty on 04.04.2003, as she was appointed by the proceedings dated 26.03.2003.

14. Therefore, it is clear from the above said Judgment that the petitioner is not eligible for the said training as he was not qualified at the time of passing the above G.O. Hence, the prayer in the above writ petition is not maintainable and accordingly the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To.

1. The Special Commissioner-cum-Secretary
to Government, Animal Husbandry Dairying
and Fisheries Department, Chennai - 9.
2. The Director of Veterinary Services,
Chennai-6.

+1cc to the Government Pleader, S.R.No. 76807

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SPD (CO)
GN (12/02/2019)

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