

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.01.2018

CORAM

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
AND
THE HONOURABLE MR. JUSTICE P. VELMURUGAN

Writ Appeal No.381 of 2017

A. Mandjiny ... Appellant/Petitioner

vs

1. Pondicherry Veterinary College Society,
represented by its Chairman,
Kurumbapet,
Puducherry-605 009
2. The Dean,
Rajiv Gandhi College of Veterinary and Animal Sciences,
Pondicherry Veterinary College Society,
Kurumbapet,
Puducherry-605 009
3. Z. Rajasekar Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P.No.587 of 2011 dated 20.12.2016. W.P.No.587/11 Prayer: Writ of Certiorari mandamus calling for the records on the file of the Second Respondent relating to the impugned Order dt.28.12.2010 bearing Ref.No.A.12012/11/2010-11/E1/RAGACOVAS and quash the same in as much as it relates to the 3rd respondent herein and consequently direct the respondents 1 and 2 to promote the petitioner as Farm Assistant with effect from 28.12.2010 with all service and monetary benefits, back wages and grant arrears with interest at 18% per annum.

For Appellant : Mr.Sai Krishnan for
M/s Sai Bharath and Ilan

For Respondent : Mr.R. Syed Mustafa
SplG.P (Pondy.,) for RR1 & 2

R3-No appearance

JUDGMENT

(Judgment of the Court was delivered by
K.K. SASIDHARAN, J.,)

This intracourt appeal is directed against the order dated 20.12.2016 in the Writ Petition in W.P.No.587 of 2011, whereby and where under, the learned Single Judge, while negating the plea made by the appellant for setting aside the order dated 28.12.2010, giving promotion to the third respondent, directed the respondents 1 and 2 to consider his case for promotion, after granting him relaxation.

2. The learned counsel for the appellant contended that the appellant was placed senior to the third respondent and as such, the second respondent was not correct in promoting the third respondent to the post of Farm Assistant. According to the learned counsel, the third respondent was given relaxation in the matter of qualification. By adopting the very same yardstick, the appellant should have been promoted to the post of Farm Assistant, taking into account his seniority position.

3. The learned counsel appearing on behalf of the respondents 1 and 2, while justifying the order passed by the second respondent dated 28.12.2010, contended that a reasonable procedure was adopted by the competent authority taking into account the total number of posts and the candidates eligible for consideration. The third respondent passed SSLC and as such, he was given relaxation in the matter of qualification. Since the appellant was only VIII Standard, he was not given promotion. According to the learned counsel, the case of the appellant would be considered in case there is a vacancy in the post of Farm Assistant.

4. The appellant was initially engaged as a Daily Wage Labourer in Rajiv Gandhi College of Veterinary and Animal Sciences, Pondicherry. His service was later regularised in the post of Farm Attendant with effect from 12.2.1998. The third respondent was also similarly appointed. He was also given the benefit of regularisation and he joined the post on 12.2.1998. Though the appellant and the third respondent joined on the very same day, the appellant was placed as Sl.No.3 in the seniority list and the third respondent at Sl.No.4. The next avenue of promotion is to the post of Farm Assistant.

5. The Recruitment Rules framed for the post of Farm Assistant indicates that the candidates should have obtained HSC or its equivalent and should also possess a certificate in Farm Training from the recognised Institution besides three years practical experience in Farming. The method of recruitment is

by way of promotion from the grade of Farm Attendant with eight years of regular service in the grade. The Rules also provide that regular employees who are in service as on the date of notification of the recruitment rules will be considered for promotion in relaxation of educational qualifications prescribed for direct recruits, provided they possess the experience, as prescribed.

6. There were three posts of Farm Assistants to be filled up by promotion from the post of Farm Attendant. The appointing authority considered the names of the appellant, the third respondent and two others taking into account the three posts available for promotion.

7. Since there were four candidates as against three posts, the appointing authority adopted a reasonable procedure by giving relaxation taking into account the qualification possessed by the candidates. The third respondent was given relaxation and he was promoted as he passed SSLC and thereafter a degree, which he obtained through Open University. He was given relaxation in the matter of educational qualification. Similarly, two other candidates, including the third respondent, were also given relaxation in the matter of qualification. The appellant possessed the least qualification viz., VIII Standard. Since the other candidates were in possession of qualification higher than the qualification possessed by the appellant, those three candidates, including the third respondent, were promoted.

8. We have perused the Minutes relating to the selection process. We are in full agreement with the process adopted by the second respondent for short-listing the candidates for appointment to the post of Farm Assistant. Since there were only three posts and four candidates, the second respondent was perfectly correct in adopting a fair and reasonable procedure. Merely because the appellant is senior, he cannot be heard to say that he should be given relaxation in the manner suggested by him. The promotion is not a matter of right. The appellant has got a right for consideration of his case for promotion. Since the appellant was in the zone of consideration, his case was also considered along with others. The employer must adopt a reasonable method for filling up the posts. The second respondent for the purpose of appointment, took the educational qualification as a criteria and by giving relaxation taking into account the higher qualification, short-listed the candidates. In that process, the appellant was denied promotion.

9. The Court exercising judicial review is not expected to act as an appellate authority. The review should be confined to the decision making process. Since a fair and reasonable procedure was adopted by the employer, the learned Judge was

correct in upholding the selection.

10. In upshot, we dismiss the intracourt appeal. No costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

sr
To

- 1.The Chairman,
Pondicherry Veterinary College Society,
Kurumbapet,
Puducherry-605 009
2. The Dean,
Rajiv Gandhi College of Veterinary and Animal Sciences,
Pondicherry Veterinary College Society,
Kurumbapet,
Puducherry-605 009

+1cc to Mr.R.Saravanan, Advocate SR.No.7289
+1cc to Government Pleader SR.No.7271

Writ Appeal No.381/2017

RV(CO)
GN(21/02/2018)

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