

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.07.2018

CORAM
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.18347 of 2008
and
MP.No.1 of 2008 and MP.No.1 of 2009

P.Muniappan,
S/o. Periyannan,
Secretary, Kuttapatti Sheep
Breeding Co-operative Society,
Bellihalli Post,
Krishnagiri Taluk,
Dharampuri District. Petitioner
Versus

1.State of Tamil Nadu,
Rep.by Secretary to Government,
Animal Husbandry, Milk & Fisheries
Department,
Fort St.George, Chennai - 9.
2.The Director of Animal Husbandry,
Teynampet, Chennai - 18. Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking Writ of Mandamus, to direct the respondents herein to allow the petitioner herein to undergo for the above said Livestock Training Course for Inspector with reference to the G.O.Ms.No.181, dated 07.11.2007 of Animal Husbandry, Milk and Fisheries Department basing on the representation dated 29.03.2008 submitted by the petitioner herein.

For Petitioner : Mr.Thangavel

For Respondents: Mrs.ThangaVadhanaBalakrishnan,
Additional Govt., Pleader.

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O R D E R

The prayer in the present writ petition is for issuance of a Writ of Mandamus, to direct the respondents herein to allow the petitioner herein to undergo the Livestock Training Course for Inspector with reference to G.O.Ms.No.181, dated 07.11.2007 of Animal Husbandry, Milk and Fisheries Department, based on the representation dated 29.03.2008 submitted by the petitioner herein.

2. The petitioner submitted that he belongs to the Backward Class and completed the Higher Secondary Course Examination and was appointed as Clerk in the Kuttapatti Sheep Breeding Co-operative Society from 01.10.1982. During the period 1983-84, he was deputed to undergo the training course and he is also qualified for the appointment as Secretary of the above Society. After completion of such training, he was appointed as Secretary from 1984 onwards. Further, he claimed that based on his experience as Clerk and Secretary of the above said Sheep Breeding Co-operative Society, he is eligible for deputation to the training course at the Livestock Inspectors' Training Centre, District Livestock Farm, Orathanad and to be appointed as Livestock Inspector, Grade II, in the light of G.O.Ms.No.9, Animal Husbandry and Fisheries Department, dated 12.01.1996. He made several representations to the respondents herein, but, there is no response. Hence, earlier he filed a writ petition in W.P.No.9777 of 1997, seeking suitable direction to the respondents in this regard to consider his representation dated 27.02.1997 as per the above said Government Order. In the said writ petition, this Court by order dated 03.07.1997, directed the first respondent to consider the petitioner's representation and to pass orders in accordance with law, within a period of eight weeks. But, the petitioner received a communication from the 2nd respondent stating that even before the order was passed by this Court, the training commenced on 27.03.1996 and ended on 27.02.1997 and no other reasons are cited in the said communication sent by the second respondent.

3. The petitioner further contended that the second respondent, by proceedings Pr.Roc.No.82715/R2/96-2, dated 04.05.1998, issued order for the Livestock Inspectors Training course at Orathanad, but the petitioner was not deputed for the above said training that time. In the meantime, by issuance of G.O.Ms.No.91, Animal Husbandry and Fisheries Department, dated 15.05.1998, there was sanction for the above said training by deputation of 100 candidates; hence, the petitioner made representations on 20.05.1998 to the second respondent proceedings to depute him for the said training, in the light of the above direction of this Court order dated 03.07.1997 in WP.No.9777 of 1997 and in pursuance of the Government order dated 15.05.1998. However, the petitioner's request was rejected by the Director of Animal Husbandry, Chennai, through his letter ROC.No.56623/B2/98, dated 25.07.1998 on the ground that the petitioner is not an employee of the Animal Husbandry and he is working at Sheep Breeding Cooperative Society; hence, he is not eligible for the Livestock Inspector Training. Further, the petitioner had made representations dated 04.06.1998 and 14.07.1998 to the second respondent for deputing him for the said training. Since, no action was taken by the second respondent, the petitioner had preferred another writ petition

in WP.No.10934 of 1998 before this Court, seeking a direction to the respondent to depute him for the above said training course as per G.O.Ms.No.91, Animal Husbandry, dated 15.05.1998 and this Court vide order dated 30.07.1998, directed the respondents to consider the petitioner's representation dated 04.06.1998 and 14.07.1998 and pass suitable orders. In the meanwhile, The second respondent, in response to the petitioner's representation to the Hon'ble Chief Minister's Special Cell informed the petitioner by Lr.Na.Ka.80438/L3/98-2, dated 11.09.1998 that in accordance with G.O.Ms.No.9, Animal Husbandry and Fisheries Department, dated 12.01.1996, that the petitioner is not an employee of the Animal Husbandry and he is working at Sheep Breeding Cooperative Society, and hence, he is not entitled for the Livestock Inspector Training and there is no scope for deputing the petitioner for the above said training. It is the contention of the petitioner that the second respondent did not inform this factual reason earlier to the petitioner.

4. Aggrieved by the above said letter issued by the second respondent, dated 11.09.1998, the petitioner filed another writ petition in WP.No.19427 of 1999, for admitting the petitioner to the next batch of training course for Livestock Inspector at Orathanad. On 18.08.2000, this Court disposed of the said writ petition in WP.No.19427 of 1999 and the operative portion of the order reads as follows:-

"27. In the circumstances while quashing the impugned proceedings, this Court directs the respondents to admit the petitioner to the Livestock Inspector's Training Course at District Livestock Farm, Orathanad in the next Batch of Training without fail.

28. The Superintendent of District Livestock Farm, Orathanad, though he is not a party, the direction issued is binding on him and the Registry is directed to communicate a copy of this order so that the said District Livestock Farm Orathanad shall admit the petitioner to the Livestock Inspector's Training Course in the next batch.

29. The Superintendent of the District Livestock Farm, Orathanad or the Head of the said Farm is also directed to intimate the petitioner the date of commencement of the Training at least six weeks in advance and the respondents are also directed to communicate the same to the petitioner and admit the petitioner to the next batch of training Course for Livestock Inspectors.

30. The Writ petition is allowed with a cost of Rs.3000/- (Rupees Three Thousand) awarded against the second respondent. Consequently, connected W.M.Ps are closed."

5. Since the respondents did not comply with the above said order, the petitioner filed Contempt Petition No.642 of 2009 against the said Writ petition and counter was also filed by the respondents and the Contempt Petition is still pending.

6. The petitioner submitted that the first respondent / Animal Husbandry and Fisheries Department, issued G.O.Ms.No.138, dated 24.06.1999, permitting deputation of 125 candidates for the above said training and consequential order was passed by the second respondent in Roc.No.111981/E2/98, dated 07.07.1999, which clearly states that out of 125 candidates, 10% is reserved for departmental candidates, 5% to Ex.Servicemen and 85% for those who have plus two qualifications sponsored through Employment Exchange.

7. In the meanwhile, the respondents have filed Writ Appeal No.1 of 2001 and the same was finally allowed on 02.11.2004, observing that the training was suspended by the Government and hence, there was no endeavour on the side of the Government and the petitioner has to wait for the appropriate time. On the other hand, the fact remains that the order of training itself was suspended by the Government and the Government has not taken any decision on the demand made by the B.V.Sc graduates to undergo the training. Thus, the order of the learned Single Judge was set aside and the writ appeal allowed. The Government of Tamil Nadu under G.O.Ms.No.181, dated 07.11.2007, Animal Husbandry and Fisheries Department issued the proceedings for recruitment and deputation of training course for the Inspector of Livestock and also intimated that the required qualification for the above said course is SSLC pass. Pursuant to the issuance of the said G.O., the petitioner made a representation on 29.03.2008. Even though, he was eligible for the said training course in the year 1997 itself, due to non-availability of the vacancies, the second respondent informed that already the eligible candidates were filled up in the vacancies; hence, the petitioner's representation was kept pending by the official respondents. According to the petitioner, the official respondents ought to have considered the representation of the petitioner. Since the petitioner's name was not considered, he approached this Court by way of filing this present writ petition to direct the respondents herein to allow the petitioner herein to undergo the above said Livestock Training Course for Inspector with reference to G.O.Ms.No.181, dated 07.11.2007 of Animal Husbandry, Milk and Fisheries Department, based on the representation dated 29.03.2008.

8. The petitioner filed MP.NO.1 of 2008, at the time of filing this Writ petition, seeking to issue interim direction to the respondents to keep one post reserved for the petitioner. However, this Court by order dated 04.08.2008 granted an order of interim direction to the respondents to sent the petitioner for livestock Inspectors training along with other candidates. Against which, the respondents have filed vacate stay petition along with counter affidavit. But there is no order directing to vacate the interim order.

9. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

10. It is seen that the petitioner in the earlier round of litigation in the Writ petition No.9777 of 1997, sought suitable directions to the respondents to consider his representation dated 27.02.1997 as per the Government Order. At that time, the petitioner was working as a Secretary in Kuttapatti Sheep Breeding Co-operative Society.

11. By order dated 03.07.1997 in W.P.No.9777 of 1997, this Court directed the first respondent to consider the petitioner's representation and pass orders in accordance with law, within a period of eight weeks. It could be seen from the said order that it was only for considering the candidates / staff in the Animal Husbandry Department. After completion of the above training, he requested to include his name for the training course. The society staff cannot be compared to the candidates who were working in the Government Department. The petitioner was working in the society, which does not come under the said Government Department and the salary is not paid by the Government. By a letter in ROC.No.56623/B2/98, dated 25.07.1998, it was informed that the remaining 45 Departmental candidates, who have already applied for the Livestock Inspector Training course and who are having 5 years of service in this Department, were also deputed for Livestock Inspector Training course for the year 1998-1999. By G.O.Ms.No.91, Animal Husbandry and Fisheries Department, dated 15.05.1998, 45 departmental candidates were deputed for Livestock Inspectors Training course and due to administrative reasons, the petitioner was not considered and his candidature was rejected for the above said training. Earlier, the petitioner filed WP.No.10934 of 1998 before this Court to direct the respondents to pass orders on his representation. The respondents also considered the same. The second respondent sent a letter dated 25.07.1998, in which he has categorically informed the petitioner that the Departmental candidates alone are eligible and not others. Even as per G.O.Nos. 9, Animal Husbandry Department, dated 12.01.1996, the Departmental service candidates alone were deputed for the said training course and the petitioner is neither an employee of the Animal

Husbandry Department nor Ex.Servicemen nor he was appointed through the employment exchange.

12. As against the order dated 18.08.2000 passed by the learned Single Judge in WP.No.19427 of 1999, directing the respondents to admit the petitioner for the Livestock Inspectors Training course in the next batch, the respondents filed Writ Appeal in W.A.No.1 of 2001 and by Judgment dated 2.11.2004, the writ appeal was allowed by the Hon'ble Division Bench, by setting aside the order of the learned single Judge and it has been observed as follows:-

" As per the G.O.(Ms).No.138, Animal Husbandry and Fisheries Department, dated 24.06.1999, the Government proposed to give training to 125 candidates every year. Among them, 10% is reserved for internal candidates, namely department of Animal Husbandry; 5% was reserved for Ex-Servicemen; and 85% was reserved for the candidates, who were sponsored through employment exchange. Strictly speaking, there was no provision in the G.O. for selecting any candidates from other departments.

We are, therefore, unable to agree with the reasons given by the learned single judge in allowing the writ petition. On the other hand, the fact remains that the impugned training programme itself is now suspended by the Government and the Government have not taken any decision on the demand made by the B.V.Sc. Graduates to undergo the impugned training. Hence, the order of the learned single judge is set aside and the Writ Appeal is allowed No cost."

13. From the above said judgment in the writ appeal, it could be seen that G.O.Ms.No.138 has been passed to give training for 125 candidates every year and out of the said candidates, 10% was reserved for internal candidates i.e., Animal Husbandry Department staff's and 5% was reserved for Ex.Servicemen and 85% was reserved for the candidates sponsored through the Employment Exchange. The petitioner does not come under any of the above category as mentioned in the said G.O. There is no provision for selecting any candidate from other Departments or from the Co-operative Society. Hence, the Division Bench set aside the order passed by the learned Single Judge and the Writ Appeal was allowed in favour of the respondents as stated above. Consequently, in respect of the selection for Livestock Inspectors Training, the petitioner cannot be sent for any training and he has no right to be considered as already the Hon'ble Division Bench has set aside the order of the learned Single Judge. Now, the petitioner is once again knocking the doors of this Court, by way of filing

this present writ petition, which is only waste of time of the Court. Even though, it is categorically replied by the Animal Husbandry Department, that the petitioner is not eligible to be selected for the said training course, the petitioner again and again filed the writ petitions with the same prayer, to direct the respondents herein to allow him to undergo the above said Livestock Training Course for Inspector with reference to G.O.Ms.No.181, dated 07.11.2007 of Animal Husbandry, Milk and Fisheries Department based on his representation dated 29.03.2008, which cannot be accepted. It is informed that the petitioner is now 55 years old, when the Livestock Inspectors Training course is rendered only to the persons belonging to the Department and it was subsequently extended to the Ex.Servicemen and the persons who were selected through Employment Exchange, the petitioner does not come under any of the above said categories and the petitioner cannot be granted the relief at this point of time.

14. For the foregoing reasons, the writ petition is dismissed. Consequently, the connected MP.No.1 of 2008 is dismissed the MP.No.1 of 2009 is ordered and the interim injunction granted on 04.08.2008 is hereby vacated. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

klr

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Animal Husbandry, Milk & Fisheries Department,
Fort St.George, Chennai - 9.
- 2.The Director of Animal Husbandry,
Teynampet, Chennai - 18.

+1cc to the Government Pleader, S.R.No.48495

AK(CO)

rrs 19/02/2019

W.P.No.18347 of 2008