

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WRIT PETITION No.11914 OF 2018

Between:

K.Nagaiah and others.

... Petitioners

Vs.

The State of Telangana, rep. by its
Secretary, Animal Husbandry & Fisheries
& Diary Development Department & others.

...Respondents

DATE OF JUDGMENT PRONOUNCED: 05.06.2017

Submitted for approval.

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

- 
- 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
 - 2 Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
 - 3 Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

*** THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

+ W.P. No.11914 of 2018

% Dated 05.06.2018

K.Nagaiah & others.

... Petitioners

Vs.

**\$ The State of Telangana, rep. by its
Secretary, Animal Husbandry & Fisheries
& Diary Development Department & others.**

..Respondents

**! Counsel for the Petitioners: Sri K.Lakshmi Mohan
Sri M.Venkat Ram Reddy**

**^ Counsel for the Respondent: Learned Government Pleader
For Services.
Sri D.Balkishan Rao for
2nd respondent.**

> HEAD NOTE:

? Cases referred

¹ 2001 (4) ALD 158 (DB)

² 1998 (6) SLR 697

³ 2017 (5) SLR 197 (S.C)

⁴ (2015) 2 Supreme Court Cases 170

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**WRIT PETITION No.11914 OF 2018****ORDER :**

This Writ Petition is filed seeking writ of mandamus declaring the action of the 2nd respondent in issuing the impugned individual Common Orders vide Memo No.493/Rectt/Pool-II/2/2016, dated 29.11.2017 in rejecting the petitioners claim stating that the qualification prescribed and the syllabus prescribed are different for appointment to the post of Veterinary Assistant in category (4) of Class-A in the Animal Husbandry Department pursuant to the Notification No.30/2017, dated 02.06.2017 issued by the 2nd respondent as illegal and arbitrary and set aside the same and consequently to direct the respondents 1 to 3 to provide equal preference to the petitioners qualification of higher degree i.e., B.Sc (Poultry Science) on par with the Diploma holders i.e., Two Years Animal Husbandry Course for appointment to the post of Veterinary Assistant in category (4) of Class-A in the Animal Husbandry Department pursuant to the Notification No.30/2017, dated 02.06.2017 as per G.O.Ms.No.282, General Administration (Ser-A) Department dated 20.09.2003.

2. Brief facts which are necessary for disposal of Writ Petition are as follows:

It is the case of the petitioners that they possess three years Degree in B.Sc. (Poultry Science) Degree, which is being offered since 1978 for the undergraduate level (UGC) at Lal

Bahadur College, Warangal, which is affiliated to the Kakatiya University, Warangal. The said course is being dealt by the Department of Poultry Science under well qualified MVSC lecturers in which the syllabus prescribed by the Andhra Pradesh Agricultural University with effect from 04.07.1988 and same is being running in the State of Telangana also. The 2nd respondent issued Notification No.30/2017 dated 02.06.2017 inviting applications from 06.06.2017 to 24.06.2017 through online on its WEBSITE for recruitment to the post of Veterinary Assistant in category (4) of Class-A in the Animal Husbandry Department for 541 vacancies. The mode of examination is objective type to be held on 23.07.2017 and that there is no interview and the selection is only through written test. In the notification, certain educational qualifications are prescribed at column No.4 in the Animal Husbandry Department. In pursuant to the same, petitioners have applied for the post of Veterinary Assistant through online by mentioning the qualification and same were acknowledged and registered their names as eligible for the said recruitment. The petitioners have appeared for the written examination and they have successfully passed and their results were announced in the first List announced on 23.09.2017 and certificate verification was also held on 04.10.2017 and made an endorsement stating that the Animal Husbandry Department on 20.10.2017, confirmed that the B.Sc (Poultry Science) qualification for the post of Veterinary Assistant is 'Not eligible' since the subject prescribed in G.O.Ms.No.34, AHDD &F (AH-II) Department dated 13.09.2013

(Service Rules of AH Department) Specifically mentioned the qualification and eligibility). Aggrieved by the said endorsement, petitioners filed WP No.37542 of 2017 along with WPMP No.46618 of 2017 seeking interim direction to consider their representation dated 16.10.2017. Though this Court has not granted interim direction, the 2nd respondent has considered the representation of the petitioners and rejected their case for recruitment to the post of Veterinary Assistant vide proceedings in Memo No.493/Rectt/Pool-II/2/2016, dated 29.11.2017. Aggrieved by the said endorsement, present Writ Petition is filed and that since nothing survives for consideration in WP No.37542 of 2017, same was dismissed as infructuous today.

3. Learned Assistant Government Pleader for Services submits that the counter affidavit filed in WP No.37542 of 2017 may be treated as counter in this Writ Petition. As such, the counter affidavit filed by the respondents 1 and 3 in WP No.37542 of 2017 is treated as counter in this Writ Petition.

4. In the counter affidavit, it is categorically stated that two (2) years Vocational Diploma Poultry Science or Two years Animal Husbandry Polytechnic Course is essential qualification for the post of Veterinary Assistant. That the qualification of three years Degree of B.Sc. (Poultry Science, Zoology & Chemistry) offered by Kakatiya University is not the qualification prescribed in Service Rules as well as in the Telangana State Public Service Commission Notification No.30/2017. That the qualifications are designed for the job chart for the post of Veterinary Assistant in Veterinary & Animal Husbandry

Department and that various Universities in the Country are designing the subject in various aspects for the study of Veterinary Science, which are not useful for the departmental needs. As such, the certificates which are produced by the petitioners are not useful for the purpose of Departmental needs. That the University Grants Commission will give recommendations based on the Programme of courses offered and there is no uniform pattern prescribed by the organization/regulatory bodies of each units requirement of stake holders of particular State. That after several amendments to the Service Rules particularly in respect of qualification prescribed for the post of Veterinary Assistant in Animal Husbandry Department, Government in the year 2013, issued G.O.Ms.No.34, AH DD & F (AH.II) Department, dated 13.09.2013 and G.O.Ms.No.11, AHDD & Fisheries(AH) Department, dated 02.06.2017 of Government of Telangana prescribing the qualification as follows:

“Must have passed two years Animal Husbandry Polytechnic Course conducted by P.V.Narsimha Rao Telangana Veterinary University, Rajendranagar or Sri Venkateswara Veterinary University, Tirupati, in any one of the Animal Husbandry Polytechnics”.

As such, the individuals who are qualified other than the above Universities are not eligible for the post of Veterinary Assistant and those who are qualified from the above Universities are only posted directly to the post of Veterinary Assistant, without imparting one year training. It is also stated that there is no word ‘etc.,’ at para 4(1)(i) i.e., qualification and also University mentioned specifically for 2 years Diploma

holders as mentioned in the above G.O as well as in the Notification No.30/2017. Since the petitioners did not possess the requisite qualifications, they are not eligible for the post of Veterinary Assistant and sought for dismissal of the Writ Petition.

5. Reply affidavit is filed by the petitioners reiterating the averments in the affidavit filed in support of the Writ Petition and also denying the allegations in the counter affidavit filed by the respondents 1 and 3.

6. Heard learned counsel for the petitioners, learned Assistant Government Pleader for respondents 1 and 3 and Sri D.Balkishan Rao, learned Standing Counsel for the 2nd respondent.

7. Learned counsel for the petitioners submits that the petitioners are possessing B.Sc. (Poultry Science) three years degree course in Poultry Science. He submits that the B.Sc. (Poultry Science) Degree programme offered by Kakatiya University and undergone by the petitioners is much higher qualification than Diploma course with the subjects prescribed by Sri Venkateswara Veterinary University, Tirupati or P.V.Narsimha Rao Telangana Veterinary University. He also submits that the petitioners have acquired B.Sc. (Poultry Science) three years degree whereas the qualification required for the post of Veterinary Assistant is only Diploma and that since the petitioners are having higher qualification than prescribed, the respondent authorities cannot deny appointment of petitioners as Veterinary Assistants. In support of his

contention, he relied on the judgments reported in **District Collector, Anantapur and others v. K.Sujatha¹, R.Rajaram v. State of Tamil Nadu (Madras)² and State of Andhra Pradesh and others v. Shaik Mahibulla Sharief³.**

8. On the other hand, Sri D.Balkishan Rao, learned Standing Counsel for the 2nd respondent submits that though the petitioners are having bachelor's degree in B.Sc (Poultry Science), the qualification and syllabus prescribed for Diploma course by respondents is different. He submits that when the course undergone by the petitioners is not with the same syllabus as prescribed for the post of Veterinary Assistant by respondent, which is essential for holding the said post, though the petitioners have acquired qualification of B.Sc. Degree, their cases cannot be considered, as such, the same have been rightly rejected by the 2nd respondent. He submits that unless the petitioners possesses statutory qualifications, though they possess higher qualification, same is irrelevant. In support of his contention, he relied on the judgment reported in **State of Punjab and others v. Anita and others⁴.**

9. In this case, it is to be seen that the 2nd respondent Commission issued Notification No.30/2017 dated 02.06.2017 inviting applications from the qualified candidates for the post of Veterinary Assistant in category (4) of Class-A in Animal Husbandry Department. In para 4 of the Notification, requisite

¹ 2001 (4) ALD 158 (DB)

² 1998 (6) SLR 697

³ 2017 (5) SLR 197 (S.C)

⁴ (2015) 2 Supreme Court Cases 170

educational qualifications for the post of Veterinary Assistant are mentioned, which reads as follows:

Post code	Name of the post	Educational qualifications
1.	Veterinary Assistant in Category (4) of Class-A in Animal Husbandry Department	i) Must have passed two years Animal Husbandry polytechnic Course conducted by P.V.Narsimha Rao Telangana Veterinary University, Rajendranagar or Sri Venkateshwara Veterinary University, Tirupati, in any one of the Animal Husbandry Polytechnics (or) ii) Must have passed intermediate Vocational Course in Dairying and Poultry Sciences as one of the subjects of study/two years poultry Diploma Course conducted by the Polytechnic, Ramachandrapuram of Sri Venkateswara University Tirupathi, etc.,/two years Intermediate Vocational course in Multipurpose Veterinary Assistant. Provided that the candidate selected with the qualifications in clause (ii) shall undergo one year Departmental Training in Veterinary Assistants Course to be conducted by the Director of Animal Husbandry and those who have successfully completed the said training shall be appointed to the 'Veterinary Assistant post'.

Admittedly, in response to the Notification issued by the 2nd respondent, petitioners have applied to the post of Veterinary Assistant and participated in the written examination conducted by the 3rd respondent on 23.07.2017 and that after successful completion of the same, petitioners were called for verification of their certificates. The personnel representing the 2nd respondent Commission has made an endorsement on 04.10.2017 on the certificate verification of 3rd petitioner, as follows:

“The candidate has completed B.Sc. in Kakatiya University with Poultry Science as one of the subject; as per the eligibility criteria the candidate has to complete Intermediate Vocational Course with Poultry Science as one of the subject or 2 years Diploma in Poultry Science in SVVU Ramachandra Polytechnic College; the candidature of the candidate may be Re-Checked before considering’.

Subsequently, all the petitioners have made a common representation dated 16.10.2017 for considering their candidature for the post of Veterinary Assistant. However, the Secretary of the 2nd respondent Commission has made an endorsement by Memo No.493/Rectt.Pool-II/2/2016, dated 23.11.2017 in respect of the petitioners individually, stating as follows:

“You are informed that, the Animal Husbandry Department on Dt: 20.10.2017 confirmed that the B.Sc (Poultry Science) qualification for the post of Veterinary Assistant is ‘Not eligible’ since the subject prescribed in G.O.Ms.No.34, AH DD &F (AH-II) Department dated 13.09.2013 (Service Rules of AH Department) specifically mentioned the qualification and eligibility. Moreover, the syllabus prescribed in the vocational courses varies in the B.Sc (Poultry Sciences). For the reasons stated by Animal Husbandry Department, Commission cannot accept your request to consider B.Sc (Poultry Science) as qualification for the post of Veterinary Assistant.”

By virtue of aforesaid endorsement made by the Secretary of the 2nd respondent Commission, it is made clear that the B.Sc (Poultry Science) Degree possessed by the petitioners is not eligible for holding the post of Veterinary Assistant. That apart, in the counter affidavit at paragraph 7 in Remarks/Clarification column, it is categorically stated that the subject dealt in the Degree Course offered by Kakatiya University, Warangal is different on the following grounds;

- 1) There are (20) subjects covered in Sri Venkateswara Veterinary University, Tirupati/P.V.Narasimha Rao Telangana Veterinary

University, Rajendranagar, Hyderabad and structured in credit mode with OGPA system of grading; whereas only one subject is covered in Kakatiya University, Warangal and remaining (3) subjects are irrelevant and marks system;

2. The subjects covered by Sri Venkateswara Veterinary University, Tirupati/P.V.Narasimha Rao Telangana Veterinary University, Rajendranagar, Hyderabad are clinical oriented and which are useful for the discharge of Veterinary Assistant job charge, whereas the subjects covered by the Kakatiya University, Warangal is useful to work in Poultry Farms.

3. The Kakatiya University, Warangal is not offering subjects like a) Analytical laboratories techniques; b) Fundamental in Animal Reproduction and Gynaecology c) Laboratory Diagnostic techniques-1 and d) Laboratory Diagnostic techniques-2.

In the aforesaid column, it is also stated that there is great variation in the subjects covered, credit houses, clinical exposure and over evaluation. Though the petitioners filed reply, but there is no denial of the aforesaid facts, which goes to show that the syllabus prescribed by SVV University, Tirupati or P.V.Narsimha Rao Telangana Veterinary University is different from that of the degree possessed by the petitioners i.e., B.Sc. (Poultry Science) offered by Kakatiya University. It is categorically stated in the counter that according to the job chart, Veterinary Assistant has to attend duties such as attend for the first aid to the livestock, attends to the castration of scrub bulls, vaccination, Artificial Insemination Fodder Development, follow up of Clinical cases and follow up work of Weaker Section Programme under guidance/supervision of a qualified, at the Veterinary Hospitals apart from assisting Assistant Director in compounding and dispensing of medicines, sterilization of surgical equipment etc., under Registered Veterinarian as per I.V.C.Act, 1984. That apart, as already

stated supra, the petitioners have not acquired specific technical qualifications prescribed for the post of Veterinary Assistant, which are essential for the departmental activities, as such, the respondents are justified in not considering the case of the petitioners. If the petitioners have not possessed the requisite qualifications with specific syllabus as per the Notification issued by the 2nd respondent Commission, the same cannot be faulted on the part of the respondents. In **State of Punjab and others v. Anita and others (supra)**, the Hon'ble Supreme Court while considering the necessity of possessing statutorily prescribed qualifications, held that possession of higher qualification than prescribed, as irrelevant. In the said judgment, it is held as follows:

“10. While examining the advertisement, which has been extracted hereinabove, we are satisfied that the applications were not invited from candidates possessing the qualification depicted in the Appendix to the 1981 Rules, pertaining to the posts of JBT/ETT Teachers. It is also apparent, that none of the private respondents possess the qualification of JBT/ETT, and as such, none of them can be stated to be possessed of qualifications statutorily prescribed and delineated in the Appendix to the 1981 Rules. None of the private respondents was therefore per se eligible for appointment to the posts of JBT/ETT Teachers. This was one of the pointed reasons why the State Government did not grant its approval to the selection and appointment of the private respondents. In our considered view, no infirmity can be found in the foresaid determination at the hands of the State Government.

11. Insofar as the issue in hand is concerned, reference may be made to the decision rendered by this Court in *PM.Latha v. State of Kerala* (2003) 3 SCC 541: 2003 SCC (L&S)339 wherein this court held as under: (SCC P546, para 10)

“10. We find absolutely no force in the argument advanced by the respondents that BEd qualification is higher qualification than TTC and therefore, the BEd candidates should be held to be eligible to compete for the post. On behalf of the appellants, it is pointed out before us that Trained Teacher's Certificate is given to teachers specially trained to teach small children in primary classes whereas for BEd degree, the training imparted is to teach students of classes above primary. BEd degree-holders, therefore, cannot necessarily be held to be holding qualification suitable for appointment as teachers in primary schools. Whether for a particular post, the source of recruitment should be from the candidates with TTC qualification or BEd qualification, is a matter of recruitment policy. We find sufficient logic and justification in

the State prescribing qualification for the post of primary teachers as only TTC and not BEd. Whether BEd qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but we cannot consider BEd candidates, for the present vacancies advertised, as eligible”.

In view of aforesaid judgment, the contention of the learned counsel for the petitioners that the petitioners have possessed B.Sc (Poultry Science) three years degree, which is higher than the two years Diploma Degree prescribed by the respondent authorities in the impugned notification, have to be considered for the post of Veterinary Assistant, cannot be accepted. It is for the recruiting authority to prescribe the syllabus and qualification for the relevant post and this Court cannot issue mandamus in respect of same. The Hon’ble Division Bench of this Court, while dealing with similar issue in W.P.Nos.35517 and 35533 of 2017, wherein the petitioners therein sought for inclusion of certain qualifications as eligible qualifications for appointment to the post of Agriculture Extension Officers Grade-II, held as follows:

“In the exercise of its jurisdiction, under Article 226 of the Constitution of India, this Court would not issue a mandamus to the Legislature to make a law, or to the rule making authority to make a rule, for these are all matters for the State Legislature/rule making authority to consider, and not for this Court to direct. As the petitioners are ineligible, both in terms of the 1997 Rules and the 2017 ad hoc Rule, for being considered for appointment as Agriculture Extension Officers Grade-II, it would be wholly inappropriate for us, at their behest, to examine whether prescription of B.Sc (Commercial Agriculture and Business Management) Course, as one among the eligible qualifications for being considered for appointment to the post of Agriculture Extension Officer Grade-II, is ultravires Part-III of the Constitution of India.”

10. In **R.Rajaram v. State of Tamil Nadu (Madras) (supra)**, it is a case where candidates possessing B.P.Ed and M.P.Ed degrees have been appointed as Physical Education Teacher/Secondary

Grade Teacher, which is higher qualification when compared to Teacher Certificate of Higher Grade in Physical Education in addition to minimum general educational qualification. That apart, both the B.P.Ed and M.P.Ed as well as Teacher Certificate holders are having same subjects. But in the instant case, the subjects involved in B.Sc (Poultry Science) with that of the syllabus prescribed by the 2nd respondent Commission is different. As such, the aforesaid judgment relied on by the learned counsel for the petitioners does not come to the rescue of the petitioners since the respondents have specifically denied the qualifications acquired by the petitioners.

11. The Hon'ble Apex Court while dealing with a case in **State of Andhra Pradesh & others v. Shaik Mahibulla Sharief (supra)**, held that the Bachelor's degree in Telugu literature as a single subject from Dr.B.R.Ambedkar Open University is equivalent to a bachelor's degree with Telugu from other Universities. But in the instant case, there are six subjects, which are not covered by both the other State Universities and also that three subjects studied by the petitioners were found irrelevant for job. As such, the aforesaid judgment of Hon'ble Supreme Court is not applicable to the facts and circumstances of the present case on hand.

12. Similarly, the learned counsel for the petitioner also relied on the judgment of Division Bench of this Court in **District Collector, Anantapur and others v. K.Sujatha (supra)**, stating that appointment cannot be refused on the ground that the candidate possessed higher qualifications than the minimum

qualifications prescribed for the post. It is a case where the respondent therein, who belongs to Scheduled Caste, possessed Bachelor Degree in Library and Information Science (BLIS) with one year duration and she applied for the post of Librarian. The minimum qualification required for the post of Librarian in the OC category was CLIS course with six months duration. However, there is no difference in the subjects, as such, her candidature was considered for the post of Librarian. But in the instant case, there is variation in between the subjects studied by the petitioners in B.Sc (Poultry Science) and the subjects prescribed by the 2nd respondent, as such, the said Judgment has no application to the facts of the case. In view of above facts and circumstances, I do not see any merit in the Writ Petition.

Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition, shall stand dismissed.

A.RAJASHEKER REDDY, J

05-06-2018.

Note: LR copy to be marked.

B/o.kvs

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY



W.P.No.11914 of 2018

Date: 05.06.2018

kvs