

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :12.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS. 11755 to 11757 OF 2013
and
M.P.Nos.1,1,&1 of 2013

K.Ravi ... Petitioner in WP.No.11755/2013
S.Udayakumar .. Petitioner in WP.No.11756/2013
L.Indirani ... Petitioner in WP.No.11757/2013

- Vs -

The Director,
The Department of Animal Husbandry,
DMS Complex, Teynampet,
Chennai 600 018. ... Respondents in all WPs.

Common Prayer: Writ petitions filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the respondent to appoint the petitioners as 'Live Stock Assistant' as per the qualification and the seniority in the Employment Exchange, in which post they are now working.

In all WPs.

For Petitioners : Mr. S. Baskaran

For Respondent : Mr.S.Thangavel, Spl.G.P.

ORDER

As the relief sought for in all the petitions are similar, they are disposed of by this common order.

2.The writ petitions have been filed by the petitioners, to direct the respondent to appoint the petitioners as 'Live Stock Assistant' as per the qualification and their seniority in the Employment Exchange, in the post in which they are now working.

3.The case of the petitioners is that the petitioners were qualified and engaged in Artificial Insemination and engaged by the Animal Husbandry Department from 2006 onwards.

3.1.It is the averment of the petitioners that they were

sent for training and after successfully completing the training in Artificial Insemination conducted by Department of Animal Husbandry and Tamil Nadu Livestock Agency at Vellore-Tiruvannamalai District Cooperative Milk Producers Federation Limited from 1.7.2005 to 30.07.2005, registered the same in Employment Exchange under special qualification Code No.651 of 20.

3.2.It is the further averment of the petitioners is that they are working in the said post of Artificial Inseminator from the date of completion of training and they have been given identity cards and the required materials by the Office of the Assistant Director, Animal Husbandry Department, Pudukkottai. All the communications were addressed to the petitioners during the course of their employment and the petitioners have been treated as a Regular Government employee. Hence the petitioners made a representation to the District Collector on 9.7.2007, during 'Manuneedhi Naal' for appointing them as Assistant and the same was forwarded to the Assistant Director of the Animal Husbandry Department, Pudukkottai, in his letter dated 18.7.2007, and the petitioners were informed that their representation would be considered as and when the Government directs to fill up the vacancies, in accordance with law.

3.3.In the mean while, to their shock and surprise, they saw the news items published in Tamil dailies dated 12.4.2008 that the Animal Husbandry Department was recruiting Livestock Assistant. Thereafter the petitioners sent a representation dated 15.4.2008 to the Hon'ble Minister, the respondent and the Regional Joint Director, Thanjavur to consider their names for the appointment, and since there was no reply, the petitioners along with similarly situated persons filed WP(MD).No.6486 of 2008 before Madurai Bench of this Court to consider their representation dated 15.4.2008 and the Madurai Bench of this Madras High Court by its Order dated 28.7.2008, disposed of the said writ petition by directing the 1st respondent to consider the representation and pass orders on the same in accordance with law.

3.4.The grievance of the petitioners is that however some of the persons were called for interview through the Employment Exchange and the petitioners name were not considered, though they have completed training and worked as Regular Employee. Aggrieved by the said inaction of the respondent, the petitioners filed the present position with the above said prayer.

4. Though the case was initially listed on 17.7.2020, there was no representation for the petitioners. In spite of repeated listing of the case, there is no representation for the

petitioners. Even today, there is no representation for the petitioners. Considering the fact that the petition has been filed way back in the year 2013 and has been pending on the file of this Court since then, this Court proceeds to decide the case on merits and pass orders, which would in no way be a detriment to the case of the petitioners.

5.Learned Special Government Pleader appearing for the respondent filed Counter affidavit and submitted that in compliance of the order dated 28.07.2008 in W.P.NO.6486 of 2008 the Assistant Director, Animal Husbandry, Pudukkottai has informed to the petitioners that as and when orders are passed by the Government for recruitment, their names will be considered, but which communication has been passed without the consent of the Committee formed for recruitment.

5.1.It is the further contention of the learned Special Government Pleader appearing for the respondent that the Assistant Director of the Animal Husbandry, Pudukkottai is not responsible for non-recommendation of the petitioners names by the Employment Exchange, the petitioners name could be considered by the respondent only when their names were sponsored by the Employment Exchange, therefore the petitioners cannot seek appointment, merely on completion of training and the said training itself will not confer any right on the petitioners to seek employment. Several procedures have to be followed while filling up vacant posts in Government Department. Though the petitioners seek to be appointed to the post of Livestock Assistant, however no such post exists in the concerned Department .

5.2.It is the further contention of the learned Special Government Pleader appearing for the respondent that basically the Artificial Insemination training is given to the unemployed youth in the rural areas in order to help the poor performers in time and also for some earnings to the youth. Whilesso, the Artificial Insemination training is not necessary to the Animal Husbandry Assistant post, and hence the prayer sought for by the petitioners in these writ petitions are not maintainable and the petitioners request for appointment in that Department cannot be considered.

5.3.Further, on instructions it is submitted that the petitioners name will be considered for appointment in the post of Animal Husbandry Assistant, as and when the Government directs to fill up the vacancies and that too if their names are sponsored by the Employment Exchange based on seniority and eligibility.

6.This Court heard the submission made by the learned

Special Government Pleader appearing for the respondent and perused the materials available on records.

7. The facts in issue are not in dispute. According to the petitioners, they have completed the training under TANILP-DANIDA Scheme and their names ought to have been considered for appointment. However, a perusal of the counter affidavit reveals that there is no such post of Live Stock Assistant in the Animal Husbandry Department. In the absence of any such post, more especially a sanctioned post, mere completion of training in Artificial Insemination is not sufficient to seek appointment as Animal Husbandry Assistant.

8. Useful reference can be had to the decision of the Hon'ble Supreme Court in Civil Appeal Nos. 2726 & 2729 of 2014 wherein the Hon'ble Supreme Court of India observed as under :-

"8.(ii).....Even temporary, adhoc or daily basis for a long number of years, let alone service for one or two years will not entitle such employee to claim regularization, if he is not working against the sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularization in the absence of a legal right.

.....

(a) Part-time employees are not entitled to seek regularization as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularization or permanent continuance of part-time temporary employees.

(b) Part time temporary employees in Government run institution cannot claimed parity in salary with regular employees of the Government of the principle of equal pay for equal work"

9. In the light of the above observation of the Hon'ble Supreme Court and following the set procedure, it is not open to the petitioners to seek employment merely on completion of training provided by the Government, and as a matter of right, more so when there is no sanctioned post of Live Stock Assistant and, therefore, the relief sought for by the petitioners cannot be granted.

10. For the reasons aforesaid, these writ petitions are dismissed. However this order would not stand in the way of of

the petitioners participating in future recruitments any recruitments as is called for by the Government in respect of any future vacancies that may arise. Consequently connected miscellaneous petitions are closed. However there shall be no order as to costs.

-s/d-

Assistant Registrar

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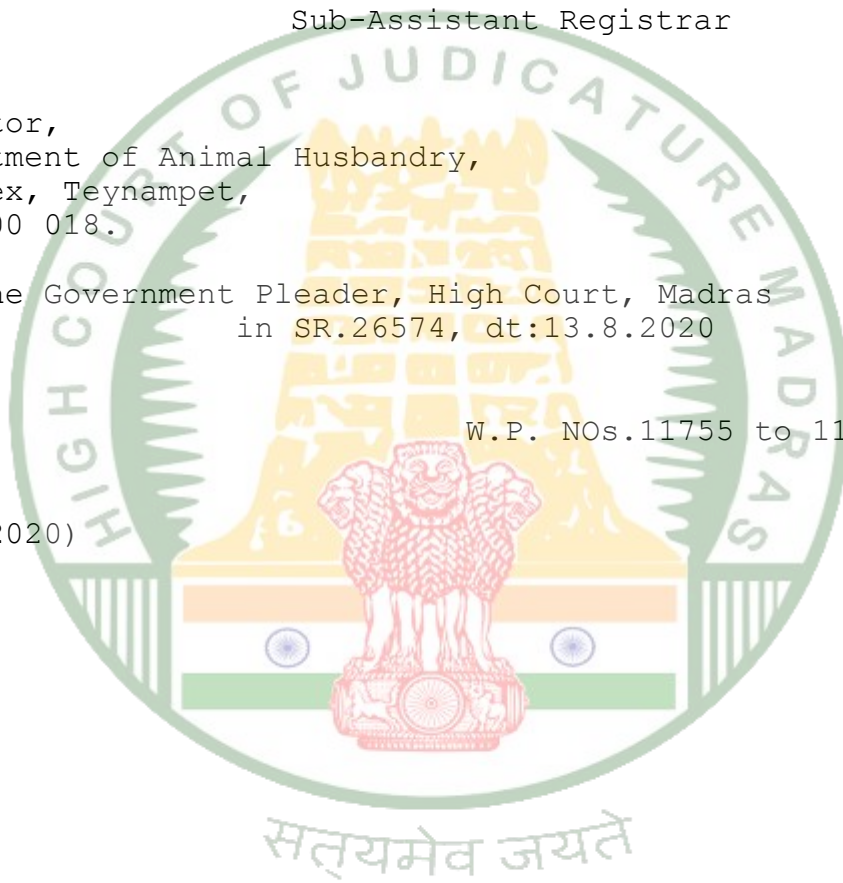
Sub-Assistant Registrar

To
The Director,
The Department of Animal Husbandry,
DMS Complex, Teynampet,
Chennai 600 018.

+1cc to The Government Pleader, High Court, Madras
in SR.26574, dt:13.8.2020

W.P. NOS.11755 to 11757 OF 2013

MR(CO)
RV(18/09/2020)



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