

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.32472 to 32475 of 2013

M.Anandan ... Petitioner in W.P.Nos.32472 & 32473 of 2013

K.Babu ... Petitioner in W.P.Nos.32474 & 32475 of 2013

vs.

1. Government of India,
Ministry of Environment and Forests,
Animal Welfare Division,
8th Floor, Jeevan Prakash Building,
25, Kasturba Gandhi Marg,
New Delhi - 110001.
2. The Secretary,
Animal Welfare Board of India,
(Ministry of Environment and Forests),
Government of India,
13/1, Third Seaward Road,
Valmiki Nagar, Thiruvannamiyur,
Chennai 600 041.
3. The Chief Secretary,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai 600 009.
4. The Secretary,
Government of Tamil Nadu,
Home Department,
Secretariat, Fort St. George,
Chennai 600 009.
5. The Secretary,
Government of Tamil Nadu,
Department of Animal Husbandry,
Secretariat,
Fort St. George,
Chennai 600 009.
6. The Secretary,
Society of Prevention of
Cruelty to Animals,
Thiruvannamalai District. ... Respondents in all W.Ps.

Writ Petition No.32472 of 2013 filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the Respondents to constitute the Animal Welfare Board in the State of Tamil Nadu according to the provision of Prevention of Cruelty to Animals Act, 1960.

Writ Petition No.32473 of 2013 filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the Respondents to absorb the service of the Petitioner as a Sub-Inspector at Thiruvannamalai District to the Society of Prevention for cruelty to Animals by seeking a pay scale on par with the salaries and benefits available to the Government Servant.

Writ Petition No.32474 of 2013 filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the Respondents to constitute the Animal Welfare Board in the State of Tamil Nadu according to the provision of Prevention of Cruelty to Animals Act, 1960.

Writ Petition No.32475 of 2013 filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the Respondents to absorb the service of the Petitioner as a Sub-Inspector at Thiruvannamalai District to the Society of Prevention for cruelty to Animals by seeking a pay scale on par with the salaries and benefits available to the Government Servant.

For Petitioner in
all W.Ps. : Mr.S.Mohanasundararajan

For 1st Respondent in
all W.Ps. : Mr.N.Ramesh,
Standing Panel Counsel

For Respondents 2 to 5 : Mr.S.Thangavel,
in all W.Ps. Special Government Pleader

COMMON ORDER

As the issue involved in all these Writ Petitions is one and the same, they are taken up for disposal by a common order.

2. Petitioners herein were appointed as Sub-Inspector to the Society of Prevention of Cruelty on Animals by the 6th Respondent herein. Their duty is to detect cases of cruelty to animals in Thiruvannamalai District and file Charge Sheets before the concerned Judicial Magistrate in Thiruvannamalai District. According to them, they have been working for more than 240 days as Sub Inspector in the Department of Prevention of Cruelty to Animals. The grievance of the Petitioners is that, their services could not be regularized unless Animal Welfare Board is constituted in the State of Tamil Nadu and

that, except for the State of Tamil Nadu, in all other States, employees of the Board of Animal Welfare have been absorbed and enrolled as Government Service. Hence, according to the Petitioners, their services have to be regularized.

3. In regard to the above, Petitioners viz. Anandan and Babu have each come up with two different Writ Petitions, one for a direction to the Respondents to constitute the Animal Welfare Board in the State of Tamil Nadu according to the provisions of Prevention of Cruelty to Animals Act, 1960 and the other for a direction to the Respondents to absorb their services as Sub-Inspector at Thiruvannamalai District to the Society of Prevention for Cruelty to Animals, by fixing a pay scale on par with the salaries and benefits available to Government Servants.

4. Heard the learned counsel on either side and perused the material documents available on record.

5. In the counter filed on behalf of the 5th Respondent, as regards constitution of Animal Welfare Board in Tamil Nadu, it is stated that, Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001 under the Act provides for the constitution of District Society for Prevention of Cruelty to Animals by the State Governments. The Act does not provide for any statutory provision for the constitution of State Animal Welfare Board. Though, the Ministry of Environment and Forests, Government of India, in its Letter dated 25.09.1996 indicated that, they are taking steps to amend the Act to make a statutory provision for constitution of State Animal Welfare Board, the said Act has not been amended so far. In the absence of such statutory provision, creation of State Welfare Board will be non-statutory.

6. It is further stated in the counter Affidavit that, the Petitioners herein are working for an NGO, which is governed by the Societies Registration Act, 1860 and the Government authorizes Inspectors/Sub Inspectors of Society of Prevention of Cruelty to Animals, merely for exercising their power to implement the Act and that, their claims cannot be considered, as they are not Public Servants and not in the Pay Roll of the Government.

7. It is seen that, the Writ Petition filed by one Dr. Bavanibabu in W.P.No.15252 of 2013 for regularizing the services of Inspectors/Sub Inspectors, has been dismissed by this Court on 07.06.2013, as not maintainable.

8. Further, it has to be noted that, though the Government has empowered the Inspectors/Sub Inspectors of Society of Prevention of Cruelty to Animals to file cases under the Act, it does not confer the status of being a Government Servant on them. Petitioners were appointed in the

Society of Prevention of Cruelty to Animals because of their interest towards animals and not based on competition. Also, it is seen that, Petitioners have not filed any Charge Sheet to establish cruelty against animals.

9. Hence, in view of the foregoing, the above Writ Petitions stand dismissed as not maintainable. However, Petitioners are at liberty to work out their remedy in the manner known to law. No costs. Consequently, connected M.P.No.1 of 2013 in W.P.No.32472 of 2013, W.M.P.No.27449 of 2017 in W.P.No.32473 of 2013 and W.M.P.No.27450 of 2017 in W.P.No.32474 of 2013 are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

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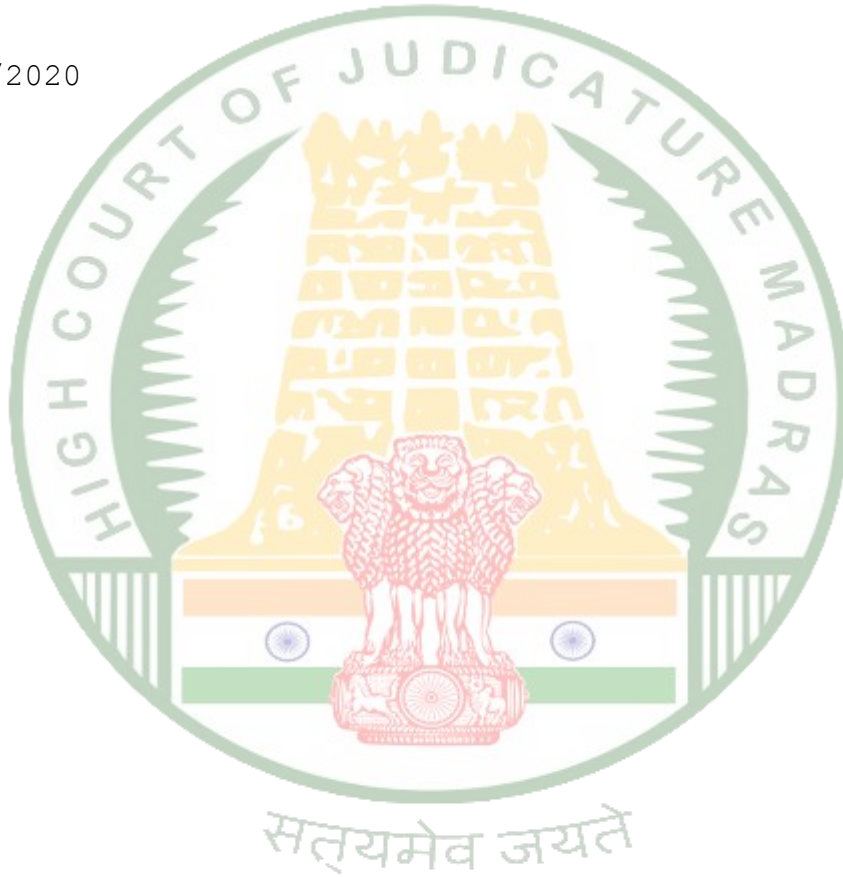
6. The Secretary,
Society of Prevention of Cruelty to Animals,
Thiruvannamalai District.

+4 cc to M/s S.Mohanasundararajan Advocate Sr.35782 & 35783

+1 cc to Government Pleader 35649

W.P.Nos.32472 to 32475 of 2013

MG (CO)
RVR 19/12/2020



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