



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2020

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.9689 of 2020

and

W.M.P (MD)Nos.8697 & 8699 of 2020

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Dr.S.John Ravikumar

...Petitioner

-Vs-

- 1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Department of Animal Husbandry,
Dairying and Fisheries,
Secretariat, Chennai-6 00 009.
- 2.The Director,
Animal Husbandry & Veterinary Services,
No.571, Anna Salai,
Nandanam, Chennai-600 035.
- 3.The Assistant Director of Animal Husbandry,
Ambasamudram @ Cheranmahadevi,
Tirunelveli District.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the first and second respondents to include the name of the petitioner in the "panel of Veterinary Assistant Surgeons fit for promotion as Assistant Director of Animal Husbandry for the year 2019, i.e., as on 01.07.2019 (crucial date)" and regularly promote the petitioner as Assistant Director of Animal Husbandry.

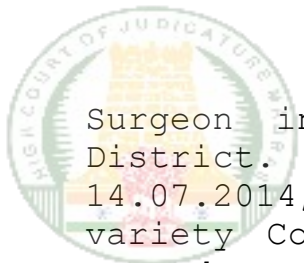
For Petitioner : Mr.T.Sakthikumaran
For Respondents : Mr.G.Arjunan,
Government Advocate

ORDER

The prayer sought for in this writ petition is for a Writ of Mandamus, directing the first and second respondents to include the name of the petitioner in the "panel of Veterinary Assistant Surgeons fit for promotion as Assistant Director of Animal Husbandry for the year 2019, i.e., as on 01.07.2019 (crucial date)" and regularly promote the petitioner as Assistant Director of Animal Husbandry.

2. Heard Mr.T.Sakthikumaran, learned counsel appearing for the petitioner and Mr.G.Arjunan, learned Government Advocate appearing for the respondents.

<https://hcservices.courts.gov.in/hcservices> 3. The petitioner is presently working as Veterinary Assistant

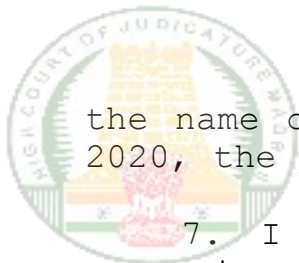


Surgeon in the Veterinary Dispensary, Pathamadai, Tirunelveli District. During the year 2014, due to the occurrence, dated 14.07.2014, where, while purchasing the Cows, instead of Jersey variety Cows, Friesian variety Cows were purchased and in this regard, a charge-memo was issued under Section 7(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, by which, disciplinary proceedings were initiated against the petitioner on charges, dated 13.03.2015 which ended in a punishment on 09.07.2015 whereby, a punishment of withholding the increment for three years without cumulative effect was inflicted against the petitioner. Assuming that the said punishment was inflicted against the petitioner, the petitioner has undergone the punishment from 01.10.2015 to 31.12.2015, therefore, with that date i.e., on 31.12.2015 the currency of punishment was over and thereafter, the petitioner become free to be considered for promotion and other benefits. However, in this regard, by taking into account the five year check period from the date of occurrence i.e., 14.07.2014 up to 14.07.2019, since five years check period was there, the petitioner's name was not included and was not considered for promotion to the post of Assistant Director of Animal Husbandry for the year 2019, since the crucial date for that year was 01.07.2019.

4. However, as far as the year 2020 is concerned, if the crucial date is 01.07.2020, absolutely there can be no impediment for the respondents to consider the name of the petitioner since the currency of the punishment was over in the year 2015 and the five years check period, taking into account from the date of occurrence, was also over on 14.07.2019, therefore, the petitioner's name should have been included or would be included in the panel prepared up to the year 2020, by taking into account the crucial date on 01.07.2020.

5. In this regard, the petitioner has given a representation on 09.03.2020, however, since the same has not been considered so far, the petitioner has approached this Court with the aforesaid prayer.

6. Mr.T.Sakthikumaran, learned counsel appearing for the petitioner by relying upon the aforesaid dates would submit that, either taking the currency of the punishment or taking the five years check period as contemplated under the rule, both are over and therefore, as far as the year 2020 is concerned, absolutely there is no impediment for the respondents to consider the case of the petitioner to be included for promotion in the panel for the year 2020. Therefore, in this regard, since the petitioner has already given a representation on 09.03.2020 and if the same is directed to be considered by the respondents on merits by taking into account the above said dates and events and accordingly, if



the name of the petitioner is included in the panel for the year 2020, the petitioner would be satisfied.

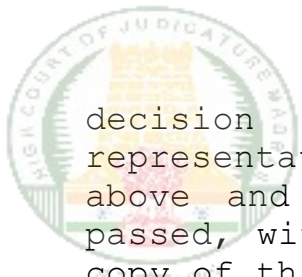
7. I have heard Mr.G.Arjunan, learned Government Advocate appearing for the respondents, who would, even though sought some time to file counter, this Court feels that, the dates and events mentioned above are not in controversy, as the occurrence taken place on 14.07.2014 and the charge, dated 13.03.2015, which ended in punishment of withholding the increment for three months without cumulative effect on 09.07.2020 and the petitioner also has undergone the punishment from 01.10.2015 to 31.12.2015 therefore, by that date, the currency of punishment was over and thereafter, five years check period will stand in the way of the petitioner from getting promotion or to be included in the panel for promotion even though, five years check period taking from the date of occurrence i.e., on 14.07.2014 would also be over by 13.07.2019. Therefore, the crucial date for the year 2019 since falls on 01.07.2019, the petitioner for the short of, if the check period is for five years, 13 days, should not be included in the panel for 2019.

8. However, as far as the year 2020 is concerned, the crucial date certainly would be on 01.07.2020 and according to the learned counsel for the petitioner, so far the panel for the year 2020 is yet to be prepared among the Veterinary Assistant Surgeons fit for promotion to the post of Assistant Director of Animal Husbandry and therefore, absolutely there can be no impediment for the respondents to consider the name of the petitioner for inclusion in the panel for the year 2020, if the petitioner is otherwise eligible.

9. In that view of the matter, this Court has no hesitation to hold that the request of the petitioner, dated 09.03.2020 can be considered by the respondents and accordingly, a suitable decision can be taken taking into account the aforesaid factual matrix.

10. In that view of the matter, this Court is inclined to dispose of this writ petition, with the following direction:

" that the respondents, especially, the second respondent is hereby directed to consider the representation of the petitioner dated 09.03.2020 and accordingly, decide the same to include his name in the panel fit for promotion to the post of Assistant Director of Animal Husbandry for the year 2020, since the crucial date for the year 2020 is 01.07.2020 and the currency of the punishment undergone by the petitioner was over on 31.12.2015 and the five years check period was also over on 14.07.2019, this Court feels that there could be no impediment for the respondents to include the name of the petitioner in the panel for the year 2020. Taking into account the aforesaid facts, a suitable



decision can be taken by the second respondent on the representation of the petitioner, dated 09.03.2020 as indicated above and accordingly, necessary orders to that effect can be passed, within a period of six weeks from the date of receipt of a copy of this order."

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11. With this direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar (CS)

AM

Note:

(i) In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Secretary to Government,
Department of Animal Husbandry,
Dairying and Fisheries,
Secretariat, Chennai-6 00 009.

2.The Director,
Animal Husbandry & Veterinary Services,
No.571, Anna Salai,
Nandanam, Chennai-600 035.

3.The Assistant Director of Animal Husbandry,
Ambasamudram @ Cheranmahadevi,
Tirunelveli District.

+1 CC to SGP (SR-14682[F] dated 21/08/2020)

+1 CC to Mr.A. THIRUMURTHY, Advocate (SR-14712[F] dated 21/08/2020)

Order made in

W.P. (MD) No.9689 of 2020

Dated:

20.08.2020

SVN(CO)

KM (12.10.2020) 4P 6C

<https://hcservices.ecourts.gov.in/hcservices/>