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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.25548 OF 2008

R.Thiruththaiyan

... Petitioner

.Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Animal Husbandry & Fisheries Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner and Director,
Animal Husbandry and Veterinary Services,
DMS Building,
Chennai - 600 006.
3. The Regional Joint Director,
Animal Husbandry Department,
V.O.C. Nagar,
Thanjavur.
4. The Deputy Director,
Exotic Cattle Breeding Farm,
Eachankottai and post,
Orathanadu Taluk,
Thanjavur Dist.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in Na.Ka.No.19926/L4/2007 dated, 02.05.2007 and Na.Ka.No.69886/L4/2007 dated 05.11.07 and on the file of the 3rd respondent in Na.Ka.No.6591/A1/2008 dated 12.08.2008 quash the same and direct the respondents to appointing the petitioner as Animal Husbandry Assistant in the sanctioned post as per the G.O.Ms.No.64, Animal Husbandry, Dairying (AH1) Fisheries Department dated 03.05.2007.



For Petitioner : Mr.S.Gunasekaran

For Respondents : Mr.S.John J.Raja Singh
Government Advocate

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O R D E R

The petitioner claims to have been appointed as a daily wage casual labourer for the post of Animal Husbandry Assistant in the Exotic Cattle Breeding Farm at Eachankottai and Post, Thanjavur on 14.09.1989, through Employment Exchange. He joined duty on 24.10.1989 and according to him, he was not permitted to work from 03.03.1991. However, there has been no order terminating his services till date.

2. Three representations dated 23.09.1992, 08.02.1995 and 30.12.1998 have been placed in the compilation accompanying the writ affidavit, wherein, the petitioner seeks resumption of duty. The first representation appears to have been filed before the Chief Minister's Cell on 09.03.2007 in response to which an order has come to be passed in Na.Ka.No.19926/L4/2007 dated 02.05.2007, rejecting the request on the ground that he did not satisfy the conditions for granting resumption of duty. There is no acknowledgment that is placed on file in regard to the subsequent two representations and thus I eschew all reference to the same.

3. The petitioner has placed reliance upon G.O.Ms.No.116 dated 07.05.1997 issued by the Animal Husbandry and Fisheries (AH6) Department that brings 465 persons who were casual workers into regular establishment. G.O.Ms.No.64, has thereafter been issued by the Animal Husbandry, Dairying (AH1) and Fisheries Department, dated 03.05.2007 that enumerates an estimate of available vacancies to the post in the concerned Departments and directs the Commissioner and Director of Animal Husbandry and Veterinary Services to take into account the casual labourers working in the Animal Husbandry Department for more than 10 years as well as persons who would be eligible for appointment on the compassionate grounds, while filling the vacancies available. The vacancies have been computed at a figure of 1317.

4. Admittedly, the petitioner does not satisfy the parameters of the aforesaid Government Orders insofar as the service that he has put in the Department is far less than the period of 10 years as required. His eligibility under G.O.Ms.No.116, dated 07.05.1997 as reiterated in G.O.Ms.No.64, dated 03.05.2007 is in the negative and this position is fairly acceded to by the learned counsel for the petitioner as well. G.O.Ms.No.116 also refers to a second category numbering 465



persons, who were listed in the annexures to the G.O. and admittedly the petitioner does not find mention therein.

5. Thus, the petitioner admittedly, does not hold any eligibility in terms of the prevalent Government Orders and his request appears to be styled merely as a mercy petition. It is in the light of the aforesaid position that one has to read and understand the orders dated 05.11.2007 and 12.08.2008 in terms of which the petitioner's request have come to be rejected.

6. That apart, and in the counter filed by R4, he points out that the petitioner had put in only 228 days of duty from 1989 till April 1991 and, in any event, did not turn up for duty after 02.04.1991. The petitioner's contention that he was terminated and not permitted to attend duty has been strenuously denied. No rejoinder has been filed to this counter. That apart, the first representation of the petitioner for reinstatement is itself dated 09.03.2007, more than 15 years after he absented himself from duty.

7. Seen in this context, reliance placed by learned counsel for the petitioner on Government Orders to the effect that the employee should be put to notice of ouster from duty, have absolutely no relevance.

8. The petitioner having absented himself from duty without sanction, from 1991, his request for reinstatement having been made only in 2007, and the fact that he does not satisfy the parameters for reinstatement, there is no merit in this writ petition and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Secretary to Government,
The State of Tamil Nadu,
Animal Husbandry & Fisheries Department,
Fort St. George,
Chennai - 600 009.



2. The Commissioner and Director,
Animal Husbandry and Veterinary Services,
DMS Building,
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3. The Regional Joint Director,
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4. The Deputy Director,
Exotic Cattle Breeding Farm,
Eachankottai and post,
Orathanadu Taluk,
Thanjavur District.

+1cc to Mr.S.Gunasekaran, Advocate, S.R.No.42489

+1cc to the Government Pleader, S.R.No.42305

W.P.NO.25548 OF 2008

PMK(CO)
PBS/23/09/2021