

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	02.11.2021
Pronounced On	01.04.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.Nos.9891, 9892, 9893, 816, 823, 827, 833, 836, 848,
853, 857, 865, 2492, 2496, 2499, 2502, 2504, 2507, 2508,
2511, 2514, 2515, 2703, 2705, 2708, 2710, 2712, 2713,
2714, 2715, 2716, 2719, 2720, 2721, 2723, 2725, 2726,
3475, 3480, 3483, 3486, 3488, 3490, 3493, 3495, 3497,
3498, 3499, 3500, 4876, 4880, 4882, 4884, 4886, 4889,
5508, 5013, 5015, 5018, 5020, 5022, 5024, 5873, 7863,
7872, 7878 & 5132 of 2020 and W.P.Nos.3810, 3814,
3818, 3823, 21856, 5103 & 20359 of 2021

and

W.M.P.No.12023, 12025, 12026, 986, 992, 993, 998, 1000,
1005, 1007, 1014, 1021, 1025, 1033, 1040, 2890, 2895,
2901, 2905, 2908, 2912, 2914, 2916, 2924, 2927, 3130, 3131,
3132, 3121, 3136, 3137, 3138, 3139, 3140, 3141, 3142,
3144, 3145, 3147, 3148, 3149, 3150, 3151, 3154, 3156,
3157, 3159, 3160, 3161, 3163, 3166, 3167, 3168, 3170,
3171, 3172, 4053, 4057, 4060, 4061, 4064, 4065, 4067,
4068, 4069, 4071, 4072, 4073, 4077, 4078, 4080, 4081,
4083, 4084, 4085, 4086, 4088, 4089, 5761, 5766, 5769, 5772,
5773, 5776, 5778, 5780, 5783, 5924, 5927, 5929, 5932, 5933,
5936, 6444, 6445, 6886, 9273, 9301 & 9292 of 2020

and

W.M.P.Nos.12027, 12029, 12030, 12032, 12035, 12040,
12041, 12046, 12048, 19010, 12051, 19013, 12072,
12076, 12077, 12078, 12081, 12082, 12084, 12086,
12088, 12090, 12181, 12182, 12183, 12184, 12185,
12186, 12187, 12190, 12191, 12193, 12195, 12196,
12197, 12198, 12199, 12216, 12217, 12219, 12220,
12222, 12223, 12226, 12229, 12231, 12232, 12245,
12253, 19014, 12255, 12257, 12258, 12259, 12260,
12264, 12266, 12267, 12268, 12269, 12271, 12274,
12275, 12276, 12277, 12280, 12281, 4352, 4357,
4361, 4362, 4369, 4373, 5680, 5684, 5689, 21612,
21613, 21614, 23042 & 23038 of 2021

(Through Video Conferencing)

DR.C. LAWRENCE ... PETITIONER in WP No.9891 of 2020

DR.P.SASIKUMAR ... PETITIONER in WP No.9892 of 2020

DR.S. PUSHPA ... PETITIONER in WP No.9893 of 2020

DR.N.CHINNASAMY	... PETITIONER in WP No.816 of 2020
DR.R.PERUMAL	... PETITIONER in WP No.823 of 2020
DR.D.USHANANDHINI	... PETITIONER in WP No.827 of 2020
DR.P.SANKAR GANESH	... PETITIONER in WP No.833 of 2020
DR.M.KOMALAVALLI	... PETITIONER in WP No.836 of 2020
DR.S.RAJAN	... PETITIONER in WP No.848 of 2020
DR.M.BABU	... PETITIONER in WP No.853 of 2020
DR.P.SADHANANDHAN	... PETITIONER in WP No.857 of 2020
DR.P.MUTHURAMALINGAM	... PETITIONER in WP No.865 of 2020
DR.A.RADHAMANI	... PETITIONER in WP No.2492 of 2020
DR.K.GOVINDARAJU	... PETITIONER in WP No.2496 of 2020
DR.M.SARAVANAN	... PETITIONER in WP No.2499 of 2020
DR.G.PARIMALA LEELA	... PETITIONER in WP No.2502 of 2020
DR.G.JEYACHANDRAN	... PETITIONER in WP No.2504 of 2020
DR.A.SUSAIMARINIXON	... PETITIONER in WP No.2507 of 2020
DR.M.GNANASEKARAN	... PETITIONER in WP No.2508 of 2020
DR.P.KEERTHI	... PETITIONER in WP No.2511 of 2020
DR.N.KANNAN	... PETITIONER in WP No.2514 of 2020
DR.M.VITHYASHANKAR	... PETITIONER in WP No.2515 of 2020
DR.P.SANKAIAH	... PETITIONER in WP No.2703 of 2020
DR.P.RAMKUMAR	... PETITIONER in WP No.2705 of 2020
DR.P.ALAGURAJAN	... PETITIONER in WP No.2708 of 2020
DR.M.VINOTH	... PETITIONER in WP No.2710 of 2020
DR.C.VIJAYVISHNU	... PETITIONER in WP No.2712 of 2020
DR.M.PRABAVATHI	... PETITIONER in WP No.2713 of 2020
DR.K.LAKSHMI	... PETITIONER in WP No.2714 of 2020
DR.N.VIJAYASUNDARAM	... PETITIONER in WP No.2715 of 2020

DR.P.MAYAN	... PETITIONER in WP No.2716 of 2020
DR.S.SENTHIL	... PETITIONER in WP No.2719 of 2020
DR.C.DEEPA	... PETITIONER in WP No.2720 of 2020
DR.N.SELVAKUMAR	... PETITIONER in WP No.2721 of 2020
DR.M.SENTHILKUMAR	... PETITIONER in WP No.2723 of 2020
DR.K.VANITHA	... PETITIONER in WP No.2725 of 2020
DR.P.DHANDAYUDHAPANI	... PETITIONER in WP No.2726 of 2020
DR.S.NAGALAKSHMI	... PETITIONER in WP No.3475 of 2020
DR.S.PRAKASH	... PETITIONER in WP No.3480 of 2020
DR.N.ELAMPARUTHI	... PETITIONER in WP No.3483 of 2020
DR.G.SUSILA	... PETITIONER in WP No.3486 of 2020
DR.S.SANTHOSH	... PETITIONER in WP No.3488 of 2020
DR. V. SRILATHA	... PETITIONER in WP No.3490 of 2020
DR.V.SARAVANAN	... PETITIONER in WP No.3493 of 2020
DR.S.MURALI	... PETITIONER in WP No.3495 of 2020
DR.M.SENTHIL RAJA	... PETITIONER in WP No.3497 of 2020
DR.S.SUNDARARAJ	... PETITIONER in WP No.3498 of 2020
DR.K.NARAYANASAMY	... PETITIONER in WP No.3499 of 2020
DR. A.VANITHA	... PETITIONER in WP No.3500 of 2020
DR.P.YASOTHA	... PETITIONER in WP No.4876 of 2020
DR.K.AYYAKKANNU	... PETITIONER in WP No.4880 of 2020
DR.R.BALAKRISHNAN	... PETITIONER in WP No.4882 of 2020
DR.Y.DHANARAJAM	... PETITIONER in WP No.4884 of 2020
DR.D.DHARMARAJ	... PETITIONER in WP No.4886 of 2020
DR.E.JANARTHANAN	... PETITIONER in WP No.4889 of 2020
DR.S.NITHYA	... PETITIONER in WP No.5508 of 2020
DR.R.THIRUPATHI	... PETITIONER in WP No.5013 of 2020

DR. S. VINOTH KUMAR	... PETITIONER in WP No.5015 of 2020
DR. P. SELVAKUMAR	... PETITIONER in WP No.5018 of 2020
DR. D. SURESH	... PETITIONER in WP No.5020 of 2020
DR. D.SUDHA	... PETITIONER in WP No.5022 of 2020
DR. K. SRIDEVI	... PETITIONER in WP No.5024 of 2020
DR. O.ANBALAGAN	... PETITIONER in WP No.5873 of 2020
DR.R.THIRUGNANAM	... PETITIONER in WP No.7863 of 2020
DR.M.PERIYASAAMY	... PETITIONER in WP No.7872 of 2020
M.MUTHAMILSELVAN	... PETITIONER in WP No.7878 of 2020
DR.K.SANGEETHA	... PETITIONER in WP No.5132 of 2020
DR.A.K.MURUGAN	... PETITIONER in WP No.3810 of 2021
DR.P.MAHENDRAN	... PETITIONER in WP No.3814 of 2021
DR.K.SENTHIL KUMAR	... PETITIONER in WP No.3818 of 2021
DR.S.SURESH	... PETITIONER in WP No.3823 of 2021
DR.S.GANESAN	... PETITIONER in WP No.21856 of 2021

- 1.DR.V.ARUL
- 2.DR.M.NOJIRAJ
- 3.DR.K.DILLI BABU
- 4.DR.S.MOHANRAJ
- 5.DR.M.DINESH KUMAR
- 6.DR.M.DHINAILAKAN
- 7.DR.S.THESINGURAJA
- 8.DR.S.SATEESH KUMAR
- 9.DR.M.ABISHEK
- 10.DR.D.VIGNESH
- 11.DR.S.NALLATHAMI
- 12.DR.E.DHAMODHARACHELVAM

13.DR.T.KANNAPIRAN

14.DR.G.SARANRAJ

15.DR.M.THENNAVAN

16.DR.M.SEDHUMADHAVAN

17.DR.C.VELLADURI

18.DR.S.SATHYARAJ

19.DR.C.EZHILARASAN

20.DR.S.SATHYARAJ

21.DR.M.SURESH

22.DR.S.SELVARASU

23.DR.S.THIRUNAVUKARASU

24.DR.MUTHUEL

25.DR.P.MAHENDRAN

26.DR.P.MICHAEL

27.DR.T.JAGANBABU

28.DR.N.MANIMARAN

29.DR.M.BALAJI

30.DR.K.KALAIKOVAN ... PETITIONERS in WP No.5103 of 2021

1.DR.S.BHARATH JOTHI

2.DR.K.ARUL JOTHI RAJA

3.DR.R.SIVASAKTHI

4.DR.V.VENKATESAN

5.DR.S.GOBIRAJU

6.DR.N.VASUDEVAN

7.DR.N.MAHENDREN

8.DR.J.JENISH RAJA

9.DR.M.NANTHAGOPAL

10.DR.P.THANGARAJ

11.DR.D. VINOTHKUMAR ...PETITIONERS in WP No.20359 of 2021

Vs

1.THE SECRETARY TO GOVERNMENT,
THE STATE OF TAMIL NADU,
ANIMAL HUSBANDRY AND VETERINARY SERVICES,
SECRETARIAT, CHENNAI 09.

... 1ST RESPONDENT in WP No.9891, 9892, 9893, 816,
823, 827, 833, 836, 848,853, 857, 865, 2492,
2496, 2499, 2502, 2504, 2507, 2508,2511, 2514,
2515, 2703, 2705, 2708, 2710, 2712, 2713,2714,
2715, 2716, 2719, 2720, 2721, 2723, 2725, 2726,
3475, 3480, 3483, 3486, 3488, 3490, 3493, 3495,
3497,3498, 3499, 3500, 4876, 4880, 4882, 4884,
4886, 4889,5508, 5013, 5015, 5018, 5020, 5022,
5024, 5873, 7863,7872 & 7878 of 2020 and
W.P.Nos.3810, 3814, 3818, 3823 & 21856 of 2021

2.THE DIRECTOR,
DIRECTORATE OF ANIMAL HUSBANDRY AND VETERINARY SERVICES,
NO. 571, ANNA SALAI,
NANDANAM, CHENNAI 600 035.

... 2ND RESPONDENT in WP No. 9891, 9892, 9893,
816, 823, 827, 833, 836, 848, 853, 857, 865,
2492, 2496, 2499, 2502, 2504, 2507, 2508,2511,
2514, 2515, 2703, 2705, 2708, 2710, 2712, 2713,
2714, 2715, 2716, 2719, 2720, 2721, 2723, 2725,
2726, 3475, 3480, 3483, 3486, 3488, 3490, 3493,
3495, 3497, 3498, 3499, 3500, 4876, 4880, 4882,
4884, 4886, 4889,5508, 5013, 5015, 5018, 5020,
5022, 5024, 5873, 7863,7872 & 7878 of 2020 and
W.P.Nos.3810, 3814, 3818, 3823 & 21856 of 2021

... 3RD RESPONDENT IN WP Nos. 5103 & 20359 /2021

3.THE SECRETARY,
TAMIL NADU PUBLIC SERVICE COMMISSION,
V.O.C. NAGAR, PARK TOWN,
CHENNAI 600 003

... 3RD RESPONDENT in WP Nos. 9891, 9892, 9893,
816, 823, 827, 833, 836, 848, 853, 857, 865,
2492, 2496, 2499, 2502, 2504, 2507, 2508, 2511,
2514, 2515, 2703, 2705, 2708, 2710, 2712, 2713,
2714, 2715, 2716, 2719, 2720, 2721, 2723, 2725,
2726, 3475, 3480, 3483, 3486, 3488, 3490, 3493,
3495, 3497, 3498, 3499, 3500, 4876, 4880, 4882,
4884, 4886, 4889, 5508, 5013, 5015, 5018, 5020,
5022, 5024, 5873, 7863, 7872, 7878 & 5132 of
2020 and W.P.Nos.3810, 3814, 3818, 3823 &
21856 of 2021

4.DR.B.S.LAVANYA

5.DR.J.SAMUEL CYRIL JAYACHANDR

6.DR.N.DEVI DURGA

7.DR.P.GOWTHAM

8.DR.B.SUBBALAKSHMI

9.DR.P.DEEPTHI PRIYANKA

10.DR.S.INDUMATHI

(R4 TO R10 IMPEADED VIDE ORDER DT 14.07.2021 MADE IN
WMP.14399/2021 IN WP.853/2020)

... RESPONDENTS 4 TO 10 in WP No. 853/2020

4.DR.DINESH BABU

5.DR.R.VIVEK KUMAR

6.DR.L.VINITHA

7.DR.S.NANDAKUMAR

8.DR.P.KAVIN KUMAR

9.DR.S.CHELLADURAI

10.DR. V. SURYA

(R4 TO R10 IMPEADED VIDE ORDER DT 14.07.2021 MADE IN
WMP.14317/2021 IN WP.865/2020)

... RESPONDENTS 4 TO 10 in WP No.865 of 2020

4.DR.NAVEEN MURUGANANDAM

5.DR SRINIVASAN

6.DR.M.GOKUL

7.DR.R.TAMILSELVAN

8.DR.G.SHANMUGAPRIYA

9.DR.V.PRAVEEN

10.K.SUNDARNATH

11.DR.T.CHANDIRANATHAN

12.DR.M.SURENDAR BVSC AND AH

13.DR.K.RENGARASU

14.DR.R.MOHAN
15.DR.S.VIJAYARAGAVAN
16.DR.P.ARIVUKARASU
17.DR.M.RAJESHKUMAR.M
18.DR.S.LENIN
19.DR.GOVINDHASAMY.S
20.DR.R.VEDIAPPAN
21.DR.T.INDHU
22.DR.K.VIGNESH
23.DR.M.GOWTHAM
24.C.SARANYA
25.DR.S.ELAVARASAN
26.DR.T.SANKAR
27.DR.M.PRAKASH
28.DR.MATHIELAMPARITHI PKP
29.DR.S.NANDHINI
30.DR.V.MANOJKUMAR
31.DR.S.SUDALAIMADASAMY
32.DR.R.RAJASEKAR
33.DR.T.DIWAGAR
34.DR.R.SANGEETHA
35.DR.HAMSA.S
36.DR.E.MUGILAN
37.DR.V.SIVAKUMAR
38.DR.V.KAVIARASU
39.DR.P.VIJAY
40.DR.P.MOHAN

41.DR.G.KISHORE

42.DR.S.AGATHIYAN

43.DR.M.KARTHICK

44.DR.G.LAVANYA

45.DR.B.JANANI

46.DR.AARIFF

47.DR.RAHULKRISHNAKANTH.J

48.DR.N.PRASANTH

49.DR.R.K.RAJKUMAR

50.DR.TAMILARASAN.K

51.DR.KUMAR M

52.DR.S.PRABHU

53.DR.KARTHIKAN

(R4 TO R53 IMPEACHED VIDE ORDER DT 14.07.2021 MADE IN
WMP.13460/2021 IN WP.3500/2020)

...RESPONDENT 4 to 53 in WP No.3500 of 2020

- 1.THE SECRETARY TO GOVERNMENT,
ANIMAL HUSBANDRY, DAIRYING AND FISHERIES DEPARTMENT,
SECRETARIAT, CHENNAI - 600 009
- 2.THE DIRECTOR OF ANIMAL HUSBANDRY AND VETERINARY SERVICES,
O/O. THE DIRECTOR OF ANIMAL HUSBANDRY
AND VETERINARY SERVICES,
CENTRAL OFFICE BUILDINGS, BLOCK -II,
CHENNAI -6

...RESPONDENT 1 & 2 in WP No.5132 of 2020

- 1.THE CHAIRMAN,
TAMIL NADU PUBLIC SERVICE COMMISSION,
SERVICE COMMISSION ROAD,
PARK TOWN, CHENNAI 600003.
- 2.STATE OF TAMIL NADU,
REP. BY SECRETARY TO GOVERNMENT,
ANIMAL HUSBANDRY AND FISHERIES DEPARTMENT,
SECRETARIAT, ST. GEORGE FORT,
CHENNAI 600009.

...RESPONDENTS 1 & 2 in WP Nos.5103 &
20359 of 2021

Prayer in WP Nos. 9891, 9892, 9893, 5013, 5015, 5018, 5020, 5022, 5024, 5873, 7863, 7872, 7878/2020 & W.P.Nos. 3818, 3823 /2021:

Writ Petition filed under Article 226 of the Constitution of India, praying this court for the issuance of a Writ of Mandamus, Directing the 2nd Respondent to regularize the petitioner herein with immediate effect, as granted by 2nd Respondent to similarly placed candidates vide proceedings in Roc. No. 49852 / M1 / 2015 dated 16.10.2018.

Prayer in WP Nos. 816, 823, 827, 833, 836, 848, 853, 857, 865, 2492, 2496, 2499, 2502, 2504, 2507, 2508, 2511, 2514, 2515, 2703, 2705, 2708, 2710, 2712, 2713, 2714, 2715, 2716, 2719, 2720, 2721, 2723, 2725, 2726, 3475, 3480, 3483, 3486, 3488, 3490, 3493, 3495, 3497, 3498, 3499, 3500, 4876, 4880, 4882, 4884, 4886, 4889, 5508/2020 and W.P.Nos. 3810, 3814 & 21856 /2021:

Writ Petition filed under Article 226 of the Constitution of India, praying this court for the issuance of a Writ of Certiorarified Mandamus, Calling for the records in respect of the Impugned Order in Roc.No. 45294/ M1/ 2019 dated 24.12.2019 passed by 2nd Respondent and quash the same and consequently direct the 2nd Respondent to immediately regularize the Petitioner herein, as granted by 2nd Respondent to similarly placed candidates vide proceedings in Roc.No. 49852/ M1/ 2015 dated 16.10.2018 within a period to be stipulated by this Court.

Prayer in WP No.5132 of 2020:

Writ Petition filed under Article 226 of the Constitution of India, praying this court for the issuance of a Writ of Mandamus, to direct the 2nd respondent to regularize the petitioners services considering the petitioners representation dated 30.01.2020 within the period that may be stipulated by this Honble Court.

Prayer in WP No.5103 of 2021:

Writ Petition filed under Article 226 of the Constitution of India, praying this court for the issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in proceedings No. Nil, dated 09.02.2021, insofar as it relates to the result of excluded candidate who fall under the category of 636 vacancies and to quash the same as illegal, incompetent and without jurisdiction and to further, forbear the respondents from appointing candidates who have already been temporarily appointed to the post of veterinary Assistant Surgeon (to an extent of 636 vacancy excluded in the Advertisement No.562, Notification No.32/2019 dated 18.11.2019 issued by the 1st respondent)

Prayer in WP No.20359 of 2021:

Writ Petition filed under Article 226 of the Constitution of India, praying this court for the issuance of a Writ of Certiorarified Mandamus, Calling for the records relating to the proceedings No Nil, dated 09.02.2021 on the file of the 1st respondent quash the same as illegal, incompetent and without jurisdiction the direct the respondents to issue fresh selection list by following 1) not to appoint candidates who have already been temporarily appointed to the post of Veterinary Assistant Surgeon (To an extent of 636 vacancy, excluded in the advertisement No. 562, Notification No. 32/2019 dated 18.11.2019 issued by the 1st respondent) 2) to allot special marks / weightage for the technically experienced candidate and also for the additional qualification of the candidate and (3) to cancel the women candidates who have been selected under vertical reservations.

MR.V.KARTHIK, Senior Counsel for M/s.R.Maheswari; Counsel for

Petitioner in W.P.Nos.9891, 9892, 9893, 816, 823, 827, 833, 836, 848,853, 857, 865, 2492, 2496, 2499, 2502, 2504, 2507, 2508, 2511, 2514, 2515, 2703, 2705, 2708, 2710, 2712, 2713,2714, 2715, 2716, 2719, 2720, 2721, 2723, 2725, 2726,3475, 3480, 3483, 3486, 3488, 3490, 3493, 3495, 3497,3498, 3499, 3500, 4876, 4880, 4882, 4884, 4886, 4889,5508, 5013, 5015, 5018, 5020, 5022, 5024, 5873, 7863,7872, 7878 of 2020 and W.P.Nos.3810, 3814, 3818, 3823, of 2021

Mr.S. NAMBI AROORAN : Petitioner in WP 5132/2020

Mr.V.RAGHAVACHARI : Petitioner in WP 5103/2020

MR.S.DORAISAMY : Petitioner in WP 20359/2021

MR.M.VELMURUGAN : Petitioner in WP 21856/2021

MR.L.S.M. Hasan Fizal, Govt. Advocate: For the Respondents 1 and 2 in W.P.Nos.9891, 9892, 9893, 816, 823, 827, 833, 836, 848,853, 857, 865, 2492, 2496, 2499, 2502, 2504, 2507, 2508, 2511, 2514, 2515, 2703, 2705, 2708, 2710, 2712, 2713, 2714, 2715, 2716, 2719, 2720, 2721, 2723, 2725, 2726,3475, 3480, 3483, 3486, 3488, 3490, 3493, 3495, 3497,3498, 3499, 3500, 4876, 4880, 4882, 4884, 4886, 4889,5508, 5013, 5015, 5018, 5020, 5022, 5024, 5873, 7863, 7872& 7878 & 5132 of 2020 and W.P.Nos.3810, 3814, 3818, 3823 & 21856/2021, 3rd Respondent in WP Nos. 510 and 20359/2021, 2nd Respondent in WP 5103 and 20359/2021.

Mr.V. VAITHIYALINGAM, Standing Counsel for the 3rd Respondent in W.P.Nos.9891, 9892, 9893, 816, 823, 827, 833, 836, 848,853,

857, 865, 2492, 2496, 2499, 2502, 2504, 2507, 2508, 2511, 2514, 2515, 2703, 2705, 2708, 2710, 2712, 2713, 2714, 2715, 2716, 2719, 2720, 2721, 2723, 2725, 2726, 3475, 3480, 3483, 3486, 3488, 3490, 3493, 3495, 3497, 3498, 3499, 3500, 4876, 4880, 4882, 4884, 4886, 4889, 5508, 5013, 5015, 5018, 5020, 5022, 5024, 5873, 7863, 7872, 7878 & 5132 of 2020 and W.P.Nos.3810, 3814, 3818, 3823 & 21856/2021 and for the 1st Respondent in WP 5103 and 20359/2021.

Mr.M.Santhanaraman: for the Respondents 4 to 10 in WP 853 AND 865/2020 & for the Respondents 4 to 53 in WP 3500 /2020

C O M M O N O R D E R

By this common order, all Seventy Four (74) Writ Petitions are being disposed.

2. Out of 74 Writ Petitions, 53 Writ Petitions have been filed for the following relief:-

Table No.1

Sl. No.	W.P.No.	Prayer
1	W.P.No.816 of 2020	For issuance of a Writ of Certiorarified Mandamus to call for the records in respect of the impugned order in Roc.No.45294/M1/2019, dated 24.12.2019 passed by the second respondent and quash the same and consequently direct the second respondent to immediately regularise the petitioners herein, as granted by the second respondent to similarly placed candidates vide proceedings in Roc.No.49852/M1/201, dated 16.10.2018, within a period to be stipulated by this Court.
2	W.P.No.823 of 2020	
3	W.P.No.827 of 2020	
4	W.P.No.833 of 2020	
5	W.P.No.836 of 2020	
6	W.P.No.848 of 2020	
7	W.P.No.853 of 2020	
8	W.P.No.857 of 2020	
9	W.P.No.865 of 2020	
10	W.P.No.2492 of 2020	
11	W.P.No.2496 of 2020	
12	W.P.No.2499 of 2020	
13	W.P.No.2502 of 2020	
14	W.P.No.2504 of 2020	
15	W.P.No.2507 of 2020	
16	W.P.No.2508 of 2020	

17	W.P.No.2511 of 2020	
18	W.P.No.2514 of 2020	
19	W.P.No.2515 of 2020	
20	W.P.No.2703 of 2020	
21	W.P.No.2705 of 2020	
22	W.P.No.2708 of 2020	
23	W.P.No.2710 of 2020	
24	W.P.No.2712 of 2020	
25	W.P.No.2713 of 2020	
26	W.P.No.2714 of 2020	
27	W.P.No.2715 of 2020	
28	W.P.No.2716 of 2020	
29	W.P.No.2719 of 2020	
30	W.P.No.2720 of 2020	
31	W.P.No.2721 of 2020	
32	W.P.No.2723 of 2020	
33	W.P.No.2725 of 2020	
34	W.P.No.2726 of 2020	
35	W.P.No.3475 of 2020	
36	W.P.No.3480 of 2020	
37	W.P.No.3483 of 2020	
38	W.P.No.3486 of 2020	
39	W.P.No.3488 of 2020	
40	W.P.No.3490 of 2020	
41	W.P.No.3493 of 2020	
42	W.P.No.3495 of 2020	
43	W.P.No.3497 of 2020	
44	W.P.No.3498 of 2020	
45	W.P.No.3499 of 2020	
46	W.P.No.3500 of 2020	
47	W.P.No.4876 of 2020	
48	W.P.No.4880 of 2020	
49	W.P.No.4882 of 2020	
50	W.P.No.4884 of 2020	
51	W.P.No.4886 of 2020	
52	W.P.No.4889 of 2020	
53	W.P.No.5508 of 2020	

3. By the impugned order, the second respondent has rejected the prayer of the petitioners to regularise their services as Veterinary Assistant Surgeons.

4. These petitioners had earlier filed Writ Petitions for issuance of a Writ of Mandamus to direct the second respondent to regularize their services with effect from the date of appointment of the similarly placed persons vide proceedings dated 16.10.2018 bearing Roc.No.49852/M1/2015 within the period that may be stipulated by this Court.

5. These Writ Petitions were disposed earlier by this Court on various dates by directing the second respondent to consider and pass appropriate orders on the representations of the petitioners. The details of the Writ Petitions are given below:-

Table No.1-A

Sl.No.	Petitioner in the present W.Ps.	Earlier W.Ps.	Date of Disposal
1	W.P.No.3486 of 2020	W.P.No.17197 of 2019	27.06.2019
2	W.P.No.865 of 2020	W.P.No.17200 of 2019	
3	W.P.No.3480 of 2020	W.P.No.17204 of 2019	
4	W.P.No.2720 of 2020	W.P.No.17208 of 2019	
5	W.P.No.3488 of 2020	W.P.No.17211 of 2019	
6	W.P.No.3500 of 2020	W.P.No.17214 of 2019	
7	W.P.No.3493 of 2020	W.P.No.17216 of 2019	
8	W.P.No.2492 of 2020	W.P.No.17219 of 2019	
9	W.P.No.2504 of 2020	W.P.No.17223 of 2019	
10	W.P.No.2716 of 2020	W.P.No.17276 of 2019	
11	W.P.No.2508 of 2020	W.P.No.17282 of 2019	
12	W.P.No.2713 of 2020	W.P.No.17289 of 2019	
13	W.P.No.2515 of 2020	W.P.No.17293 of 2019	
14	W.P.No.853 of 2020	W.P.No.17295 of 2019	
15	W.P.No.848 of 2020	W.P.No.17298 of 2019	
16	W.P.No.857 of 2020	W.P.No.17301 of 2019	
17	W.P.No.816 of 2020	W.P.No.17303 of 2019	
18	W.P.No.4886 of 2020	W.P.No.17310 of 2019	
19	W.P.No.3497 of 2020	W.P.No.16659 of 2019	27.06.2019
20	W.P.No.827 of 2020	W.P.No.16660 of 2019	
21	W.P.No.2703 of 2020	W.P.No.16661 of 2019	

22	W.P.No.836 of 2020	W.P.No.16663 of 2019	
23	W.P.No.4884 of 2020	W.P.No.16664 of 2019	
24	W.P.No.2721 of 2020	W.P.No.16666 of 2019	
25	W.P.No.833 of 2020	W.P.No.16667 of 2019	
26	W.P.No.823 of 2020	W.P.No.16668 of 2019	
27	W.P.No.2725 of 2020	W.P.No.16633 of 2019	27.06.2019
28	W.P.No.4880 of 2020	W.P.No.16637 of 2019	
29	W.P.No.2708 of 2020	W.P.No.16639 of 2019	
30	W.P.No.2502 of 2020	W.P.No.16640 of 2019	
31	W.P.No.2712 of 2020	W.P.No.16643 of 2019	
32	W.P.No.2507 of 2020	W.P.No.16646 of 2019	
33	W.P.No.2511 of 2020	W.P.No.16650 of 2019	
34	W.P.No.3499 of 2020	W.P.No.16652 of 2019	
35	W.P.No.2705 of 2020	W.P.No.16653 of 2019	
36	W.P.No.2723 of 2020	W.P.No.16655 of 2019	
37	W.P.No.4882 of 2020	W.P.No.32239 of 2019	18.11.2019
38	W.P.No.2715 of 2020	W.P.No.32241 of 2019	
39	W.P.No.4889 of 2020	W.P.No.32244 of 2019	
40	W.P.No.2496 of 2020	W.P.No.32246 of 2019	
41	W.P.No.2710 of 2020	W.P.No.32254 of 2019	
42	W.P.No.3498 of 2020	W.P.No.32255 of 2019	
43	W.P.No.3483 of 2020	W.P.No.32257 of 2019	
44	W.P.No.2514 of 2020	W.P.No.32258 of 2019	
45	W.P.No.4856 of 2020	W.P.No.33522 of 2019	29.11.2019
46	W.P.No.3475 of 2020	W.P.No.34171 of 2019	
47	W.P.No.2726 of 2020	W.P.No.34173 of 2019	
48	W.P.No.3490 of 2020	W.P.No.34175 of 2019	
49	W.P.No.2714 of 2020	W.P.No.34180 of 2019	
50	W.P.No.2499 of 2020	W.P.No.34183 of 2019	
51	W.P.No.3495 of 2020	W.P.No.34195 of 2019	
52	W.P.No.2719 of 2020	W.P.No.34200 of 2019	
53	W.P.No.5508 of 2020	W.P.No.14139 of 2019*	

* W.P. (MD) No.14139 of 2019

6. Out of remaining 21 Writ Petitions, the following 5 Writ Petitions have been filed for the following relief:-

Table No.2

Sl. No.	W.P.No.	Prayer
1	W.P.No.3810 of 2021	For issuance of a Writ of Certiorarified Mandamus to call for the records in respect of the impugned order in Roc.No.45294/M1/2019, dated 24.12.2019 passed by the second respondent and quash the same and consequently direct the second respondent to immediately regularise the petitioners herein, as granted by the second respondent to similarly placed candidates vide proceedings in Roc.No.49852/M1/2015, dated 16.10.2018, within a period to be stipulated by this Court.
2	W.P.No.3814 of 2021	
3	W.P.No.3818 of 2021	
4	W.P.No.3823 of 2021	
5	W.P.No.21856 of 2021	

7. These petitioners have approached this court for the first time. These petitioners had not filed any Writ Petitions for Mandamus as in the case of other petitioners in Table No.1. They were watching the proceedings unfold as fence sitters.

8. They are also seeking for similar relief as in the case of the petitioners in Table No.1. These petitioners have also challenged the impugned orders dated 24.12.2019 of the second respondent bearing Roc.No.45294/M1/2019 as their representations for regularisation of their services as Veterinary Assistant Surgeon were also rejected.

9. Among the remaining 16 Writ Petitions, the following 14 Writ Petitions have been filed for the following relief:-

Table No.3

Sl. No.	W.P.No.	Prayer
1	W.P.No.9891 of 2020	For issuance of a Writ of Mandamus, to direct the second respondent to regularise the petitioners herein with immediate effect, as granted by the second respondent to similarly placed candidates vide proceedings in Roc.No.49852/M1/2015, dated 16.10.2018.
2	W.P.No.9892 of 2020	
3	W.P.No.9893 of 2020	
4	W.P.No.5013 of 2020	
5	W.P.No.5015 of 2020	
6	W.P.No.5018 of 2020	
7	W.P.No.5020 of 2020	
8	W.P.No.5022 of 2020	
9	W.P.No.5024 of 2020	
10	W.P.No.5873 of 2020	
11	W.P.No.7863 of 2020	
12	W.P.No.7872 of 2020	
13	W.P.No.7878 of 2020	
14	W.P.No.5132 of 2020	

10. The common grievance of the above petitioners in the Table Nos.1, 2 & 3 is that pursuant to the G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011, the second respondent Director of Animal and Husbandry Service vide Proceedings in Roc.No.49852/M1/2015, dated 16.10.2018 had appointed and regularised the service of the candidates who were not placed in the reserve list, whereas, services of these petitioners who were similarly placed like them have not been regularised even though they also appeared in the examination conducted pursuant Notification dated 25.02.2009/28.02.2009 issued by the third respondent Tamil Nadu Public Service Commission but were absorbed against newly created vacancies for the post of Veterinary Assistant Surgeons vide G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 on temporary basis.

11. It is submitted that the second respondent Director of Animal and Husbandry Service regularised services of 117 candidates contrary to Rule 10(a)(i) of the General Rules of the Tamil Nadu State and Subordinate Services Rules and thus discriminated between them.

12. It is further case of these petitioners that out of the 117 candidates, 29 candidates were not eligible to be appointed as they were sponsored by the Employment Exchange and therefore contrary to Rule 10(a)(i) of the General Rules of the Tamil Nadu State and Subordinate Services Rules. It is further case of these petitioner that some of the persons were

also neither registered with Employment Exchange or were in the reserve / regular list of the Tamil Nadu Public Service Commission.

13. It is submitted that 29 candidates out of 117 candidates in the reserve list of the Tamil Nadu Public Service Commission never participated in the exams conducted by the Tamil Nadu Public Service Commission. However, they were appointed and their services were regularised arbitrarily.

14. It is submitted that respondents failed to regularise service of the petitioners despite they having served as Veterinary Assistant Surgeons against 843 temporary posts of Veterinary Assistant Surgeons in terms of G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 which comprised of 585 newly created posts over and above 258 exiting vacancies during 2011.

15. Remaining 2 Writ Petitions have been filed for the following relief.

Table No.4

Sl. No.	W.P.Nos.	Prayer
1	W.P.No.5103 of 2021	Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in Proceedings No.Nil, dated 09.02.2021 insofar as it relates to the result excluded candidates who fall under category of 636 vacancies and to quash the same as illegal, incompetent and without jurisdiction and to further, forbear the respondents from appointing candidates who have already been temporarily appointed to the post of Veterinary Assistant Surgeon (to an extent of 636 vacancies excluded in the Advertisement No.562, Notification No.32/2019, dated 18.11.2019 issued by the first respondent).
2	W.P.No.20359 of 2021	

16. The common grievance of the petitioners in Table No.4 is that they have secured higher marks, but, the respondent failed to recognise them.

17. It is stated that the Tamil Nadu Public Service Commission issued Notification No.32/2019 dated 18.11.2019 to fill up 1141 vacancies (excluding 636 vacancies filled up by temporarily working Veterinary Assistant Surgeons).

18. It is the specific case of these petitioners that out of total vacancies of 1141 under Notification No.32/2019 dated 18.11.2019, about 300 persons who were appointed on temporary basis under Rule 10(a)(i) of the aforesaid Rules appeared for examination even though there was a specific embargo in the above Notification against them from permitting them to participate in the exams.

19. It is the case of the petitioners that these 300 persons out of 636 persons were already on temporary rolls who were appointed pursuant to G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011.

20. It is specific case of the petitioners that these 300 persons out of 636 persons were not eligible on account of the fact that they have already been appointed temporarily and they were specifically excluded from submitting their application under the said Notification.

21. It is submitted that however, about 300 out of 636 Veterinary Assistant Surgeons appointed temporarily applied for the vacancies in Notification No.32/2019 dated 18.11.2019. Out of 300 candidates, about 180 candidates have passed the selection process and were appointed as is reflected in the impugned order dated 09.02.2021, whereas, the petitioner in W.P.No.5103 of 2021 has stated that about 235 ineligible candidates were allowed to participate. Out of which, 180 candidates have been selected in the impugned order dated 09.02.2021 pursuant to the above Notification No.32/2019, dated 18.11.2019.

22. It is submitted that in any event, the fact remains that 180 candidates out 636 persons who were appointed on temporary basis, were wrongly selected subsequently in the recruitment called for pursuant to the Notification No.32/2019 dated 18.11.2019. Therefore, these petitioners in Table No.4 pray for forbearing any of the 636 persons who were already in temporary services from appointing pursuant to the Notification No.32/2019 dated 18.11.2019.

23. Mr.V.Karthik, the learned Senior Counsel for Dr.R.Maheswari appeared for the petitioners in W.P.No.816 of 2020 and etc. batch submits that petitioners in Table Nos.1, 2 & 3 applied for the post of Veterinary Assistant Surgeon called for in the Notification / Advertisement dated

25.02.2009 by the Tamil Nadu Public Service Commission and these petitioners qualified in the written examination conducted on 31.05.2009 and were called for interview in the year 2009 and their certificates were verified for appointment.

24. It is submitted that their appointments were delayed and were appointed only after G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 was issued. It is submitted that these petitioners were wrongly selected on temporary basis.

25. It is submitted that barring these petitioners, services of 88 similarly placed candidates (forming part of the 117 candidates in the reserve list) though appointed under Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State and Subordinate Service Rules against 843 vacancies were regularised. It is submitted that however, the respondent Tamil Nadu Animal Husbandry and Veterinary Services Department has not regularised services of these petitioners.

26. It is submitted that meanwhile, services of the 117 candidates alone were regularised including 88 candidates who were appointed like these petitioners vide Proceedings in Roc.No.49852/M1/2015 dated 16.10.2018, whereas, the service of these petitioners were not regularised.

27. It is also submitted that these petitioners submitted their representations to the second respondent Director of Animal Husbandry Services to regularise their service on par with the 117 candidates who were regularised vide Proceedings in Roc.No.49852/M1/2015 dated 16.10.2018.

28. However, the second respondent Director of Animal Husbandry Services has not responded to the said representations which resulted in filing of Writ Petitions mentioned in Table No.1-B in this order.

29. It is submitted that by separate orders mentioned in Table No.1-B in this order, this Court directed the respondents to consider the representations of these petitioners and the respondents has however rejected the said representations.

30. The learned counsel for these petitioner also submits that the petitioners and 88 candidates (forming part of 117 candidates) were appointed against the 585 vacancies in terms of G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 and in the said G.O., Clause 8 clearly stated that filling up of 585 vacancies of Veterinary Assistant Surgeon has to be in accordance with Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State and Subordinate Service Rules and before filling up the vacancies through Employment Exchange, the candidates in the

regular / reserve list should be adjusted.

31. It is submitted that this Court also confirmed by its order dated 19.06.2012 in W.P.No.4857 of 2012 filed by one Dr.Vijayakumar R and directed the respondents to appoint persons whose names were in the reserve list sponsored by the Tamil Nadu Public Service Commission first against the newly created 585 posts of Veterinary Assistant Surgeons.

32. It is also submitted that there is mystery as to how 29 candidates come in the reserve list of 117 candidates given by the Tamil Nadu Public Service Commission as they never participated in the examinations conducted by the Tamil Nadu Public Service Commission and there was no explanation from the respondent about this issue and their services were also regularised, whereas services of these petitioners were not regularised even though they appeared in the examination and were called for the interview.

33. It is submitted that these petitioner have already rendered almost 8 years of impeccable service and are drawing regular pay from the date of their initial appointment as that of other regularized appointments. It is submitted that as per G.O.Ms.No.146, dated 13.09.2006, the reserve list of successful candidates shall be in force until the regular list of successful candidates is drawn up subsequently.

34. It is submitted that if the respondents are permitted to go ahead with the appointments of candidates to the post of Veterinary Assistant Surgeon pursuant to Notification No.32/2019, dated 18.11.2019, these petitioners will not be regularised by the respondent and in most probability be ousted out.

35. It is further submitted that there are contra submissions given by the respondents in the counter affidavit filed by the second respondent, i.e. in paragraph No.9, it has been stated that the petitioners have completed more than 8 years of service from 2012, whereas, in the ground 'g', it has been stated that these petitioners are continuing their service only on the basis of interim order granted by the Hon'ble Supreme Court.

36. It is submitted that the order of the learned Single Judge quashing of G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 has been reversed by the Division Bench by an order dated 22.01.2016 in W.A. (MD) No.818 of 2012 etc. batch and therefore the petitioners are entitled for regularisation on par with others.

37. The learned Senior Counsel for these Writ Petitions relied on the following decisions:-

- i. State of Uttar Pradesh and others Vs. Arvind Kumar Srivastava and others, (2015) 1 SCC 347.
- ii. Somesh Thapliyal and another Vs. Vice Chancellor, H.N.B. Garhwal University and another, 2011 SCC OnLine SC 659.
- iii. P. Rajasekaran Vs. The State of Tamil Nadu and others, MANU/TN/8889/2006.
- iv. Workmen of Bhurkunda Colliery of Central Coalfields Limited Vs. Bhurkunda Colliery of Central Coalfields Limited, (2006) 3 SCC 297.
- v. Santosh Kumar Vs. State of A.P. and others, (2003) 5 SCC 511.
- vi. Arjun Singh and others Vs. State of Himachal Pradesh and others, (2015) 15 SCC 713.

38. It is therefore prayed for a direction to the respondents to regularise the service of the petitioner on par with the candidates whose services were regularised vide proceedings in Roc.No.49852/M1/2015 dated 16.10.2018, before finalising the Notification No.32/2019 dated 18.11.2019.

39. The learned Government Advocate for the State has referred to the counter affidavit, wherein, it is stated that the petitioners participated only in the interview conducted by the Tamil Nadu Public Service Commission for the post of Veterinary Assistant Surgeon in 2009. It is submitted that these petitioners whose cases were represented by the learned senior counsel were not entitled to be absorbed permanently as their names were not in the reserve list.

40. It is submitted that the names of the petitioners in Table Nos.1 to 3 were not found in the reserve list. It is submitted that the Government issued G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 to fill up 843 posts of Veterinary Assistant Surgeons (585 + 258) from the reserve list of the Tamil Nadu Public Service Commission and from the list sponsored by the Employment Exchange under Rule 10(a)(i) of the aforesaid Rules, following the seniority and communal roster system. It is submitted that the petitioners were appointed pursuant to G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011.

41. Further, it is stated that about 1404 names of Veterinary Graduates were received from the Employment Exchange, 798 persons were selected in the interview on the basis of seniority. Out of 798 persons, only 747 persons joined services and now only 636 candidates are working in the various places in the State of Tamil Nadu.

42. It is submitted that even if the names of these petitioners were kept in the reserve list in 2009, they could not have been kept in the reserve list for a period beyond one year. The respondents have denied all the averments made in these Writ Petitions and hence prayed for dismissal of all these Writ Petitions relating to this issue.

43. The learned Standing Counsel for the Tamil Nadu Public Service Commission submits that the Government of Tamil Nadu has issued G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 to fill up 843 posts of Veterinary Assistant Surgeons.

44. After the selection under Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State and Subordinate Service Rules on temporary basis, 747 candidates joined in the post of Veterinary Assistant Surgeon and presently 636 candidates are working in the said post as 111 candidates left. It is submitted that none were appointed by following the direct recruitment rules.

45. It is submitted that by an order dated 12.09.2012 in W.P.(MD) No.1666 of 2012 and etc. batch, the Madurai Bench of this Court disapproved the appointment of 636 candidates who were appointed under Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State and Subordinate Service Rules temporarily.

46. It is submitted that the Government decided to conduct Special Qualifying Exam to all 636 candidates who were appointed under Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State and Subordinate Service Rules temporarily for absorbing them permanently vide G.O. (Ms) No.104, Animal Husbandry, Dairying and Fisheries (AH-7) Department, dated 20.05.2014 against the vacancies of 1021 Veterinary Assistant Surgeon.

47. It is submitted that Division Bench by a common Judgment dated 22.01.2016 in W.A. (MD) No.818 of 2012 etc. batch, set aside the said G.O.(Ms) No.104, Animal Husbandry, Dairying and Fisheries (AH-7) Department, dated 20.05.2014 and directed to conduct the competitive test for the total vacancies of 1021. S.L.P. filed before the Hon'ble Supreme Court against the order dated 22.01.2016 of the Division Bench is still pending.

48. It is submitted that the Hon'ble Supreme Court by an interim order dated 18.04.2016 has ordered Status Quo regarding the service of these 636 candidates who were appointed in terms of G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 under Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State and Subordinate Service Rules on temporary basis and are working till date.

49. It is submitted that since there was demand for filling up the vacancies that arose during the interregnum, Notification No.32/2019, dated 18.11.2019 was issued to fill up 1141 posts excluding the 636 vacancies filled up by the temporary candidates, on the opinion given by the Advocate General.

50. All these petitioners in Table Nos.1 to 3 are part of the 636 candidates whose fate is to be decided in the S.L.P. pending before Hon'ble Supreme Court. Therefore, their appointments cannot be regularised under Notification No.32/2019, dated 18.11.2019.

51. The learned Standing Counsel for the Tamil Nadu Public Service Commission further submits that the regularisation of 117 candidates from the reserve list given by the Tamil Nadu Public Service Commission is the discretion of the State Government and the Department of Animal Husbandry Service and accepts the stand of them. He therefore prays for permission of this Court to pave the way to fill up 1141 posts and to issue appointment to the selected candidates as per the Notification No.32/2019 dated 18.11.2019. It is therefore prayed for dismissal of these Writ Petitions.

52. Heard the learned counsel for the respective petitioners and the learned Government Advocate appearing for the State of Tamil Nadu and the learned Standing Counsel appearing for the Tamil Nadu Public Service Commission.

53. As per Rule 4 of the Part II - General Rules of Tamil Nadu State and Subordinate Service Rules, there are three methods of appointment under the Tamil Nadu State and Subordinate Service Rules. They are as follows:-

- i. By direct recruitment,
- ii. By direct by transfer, and
- iii. By promotion.

54. As per Rule 4 of Part II-General Rules of Tamil Nadu State and Subordinate Services Rules, all appointment shall be from the "approved list". Rule 4 of Part II General Rules of Tamil Nadu State and Subordinate Services Rules reads as under:-

4. Approved candidates - (a) All first appointments to a service or class of category or grade thereof State or Subordinate, whether by direct recruitment or by recruitment by transfer or by promotion, shall be made by the appointing authority from a list of approved candidates. *All appointments made by transfer, from one class to another class and from one category to another category, in the same service carrying identical scale of pay shall be made by the appointing authority from

a list of approved candidates. Such list shall be prepared in the prescribed manner by the appointing authority or any other authority empowered in the Special rules in that behalf ** and shall be displayed in the Notice Board in the Office of the appointing authority.** The list shall also be communicated to all persons concerned by Registered post whose names are found in the list as well as to persons senior to the Junior most person included in the list whose names have not been included in the list. Where the candidates in such list are arranged in their order of preference appointments to the service shall be made in such order:

** (w.e.f. 25.7.2003 Vide G.O.Ms.No.130 P&AR(S)
Dept. dt.29.4.2004 & G.O.Ms.No.99 P&AR(S)
Dept. dt. 2.8.2005)

*[G.O.Ms.No.284, P & AR (S), dt.1-12-97 came into force on 1-12-97].

Provided that the list of approved candidates for appointment by promotion and by recruitment by transfer to all the categories of posts in the Tamil Nadu State and Subordinate Services shall be prepared annually against the estimated number of vacancies expected to arise during the course of a year. The estimate of vacancies shall be prepared taking into account the total number of permanent post in a category; the number of temporary posts in existence; the anticipated sanction of new posts in the next year; the recruitment post of leave reserves; the anticipated vacancies due to retirement and promotion, etc., in the course of the year and the number of candidates already in position in that category. The list of approved candidates, so prepared, shall be in force for a period of one year only and shall lapse at the end of the year. The candidates whose names were included in the previous list, but were not appointed, shall be considered, if eligible for inclusion in the list of next year along with their seniors if any whose names were not included in the previous list either because they were found not suitable or because they were not technically qualified when the previous list was drawn up. ***

Provided further that for preparing such lists to fill up vacancies, the names of the

qualified candidates in the seniority list in a class, category or service shall be considered in the following proportions (rounding off fractions to the next whole number):-

Number of Vacancies	Number of qualified candidates to be considered
1-20	200% of the actual number of estimated vacancies
21-80	175% of the actual number of estimated vacancies, subject to a minimum of 40
81 and above	150% of the actual number of estimated vacancies, subject to a minimum of 140

Provided also that if the qualified candidates, after consideration of their claims, are found not suitable for the post, the names of the next qualified candidates, to the extent necessary, shall be considered:

Provided also that in respect of each reserved vacancy to be filled up by the candidate belonging to the Backward class, Backward Class Muslims or the Most Backward Class and Denotified Community or the Scheduled caste or the Scheduled Tribe, the names of the first two qualified candidates belonging to the backward Classes, Backward Class Muslims or most Backward Classes and Denotified Communities or the Scheduled Caste and Scheduled Tribes, as the case may be shall be considered, subject to their availability and if the first two qualified candidates belonging to the backward classes, Backward Class Muslims or Most Backward Classes and Denotified Communities or the Scheduled Caste and Scheduled Tribes, as the case may be are found not suitable for the post, the claims of the next two qualified candidates belonging to that reserved Category shall be considered. No reserved vacancy shall be left unfilled, except when no qualified candidates in the seniority list in a Class, Category or Service belonging to that reserved category are available for consideration. In respect of a vacancy to be filled up by General Turn, the names of the qualified candidates including these belonging to the Backward Classes, Backward Class Muslims, the Most Backward

Classes and Denotified Communities, the Scheduled castes and the Scheduled Tribes in the seniority in a class, Category or Service shall also be considered:

Provided also that in respect of filling up vacancies in the post of Head of Department, the number of names of qualified candidates to be considered shall be fixed as twice the number of vacancies plus three in the seniority list in a Class. Category or Service.

***[Substituted Vide G.O.Ms.No.34, P&AR (S)
Dept., dt.30-1-96 w.e.f 30-1-96].

#(Explanation I - The period of one year validity for the list of approved candidates shall be reckoned from the date of approval of the panel by the competent authority;

Explanation II-In respect of appointment to the posts, which are under the purview of the Tamil Nadu Public Service Commission, temporary list may be drawn and published as aforesaid with reference to the qualification on the date fixed for the regular lists to meet out the exigencies of service and to avoid administrative delay. Once a qualified candidate is included in the temporary list with reference to the qualification on the crucial date fixed for regular list his rights for temporary appointment should be protected and he should not be overlooked in preference to a person, who was not included in the temporary list as he was not qualified on the crucial date but subsequently qualified. The temporary list shall be adopted for giving temporary appointments till the regular list is approved and regular appointments are made with reference to the regular list.

Explanation III - No temporary list shall be prepared in respect of the posts for which the consultation of the Tamil Nadu Public Service Commission is not required and the list of names prepared, if any, shall be a regular one.)

#Added in G.O.Ms.No.999, P&AR (Per.P),
dt.22-10-1983

* [Provided further that a list of approved candidates (including a 'Nil' list) prepared

even prior to the coming into effect of the preceeding proviso shall not be invalid for the reason that it was prepared with reference to the estimated number of vacancies expected to arise during the course of the year:]

* Added in G.O.Ms.No.516, P & AR (Per.M),
dated 3-6-1982

Provided further that wherever, advancement to Higher temporary posts, under the scheme of "Flexible Complementing" has been provided a panel of persons who will be completing ten years of satisfactory service during the period from first June of a year to 31st May of the next year and are suitable for advancement to the next higher post, shall be kept ready every year so that the advancement may be sanctioned on completion of ten years of satisfactory service. Leave other than extraordinary leave without allowances should be taken into account while computing the ten years period. The period of ten years in the lower post will be reckoned from the date of regular appointment to that post, but will exclude the periods of reversion. The panel so prepared shall be utilised for promotion to higher posts in the regular line, except in respect of posts, for which consultation with the Commission is necessary for preparing the panel for appointment to higher posts in the regular line.

Explanation- The scheme of "Flexible complementing" provides for advancement to the next higher posts, on completion of ten years of satisfactory service in the lower post.

(b) where a candidate's name has been included in the list of approved candidates for more than one service, the appointment authority who proposes to appoint such a candidate first shall require him to elect the service to which he wishes to be appointed. On such election, the candidate's name shall be removed from the list or lists of approved candidates for the service or services to which he does not wish to be appointed.

(c) An approved candidate for any service or for any class or category thereof who joins the Armed Forces in connection with the National Emergency before he is appointed to the service, class or category for which he

has been selected or a person who while on such military duty is selected for a Civil post and included in the list of approved candidates for appointment to a service or class or category thereof shall be appointed to such service, class or category on his due turn with effect from the date on which he would have been so appointed, but for his absence on military duty. With effect from the date on which he is so appointed, he shall be entitled to count the period of his military duty towards probation on his civil post. He shall be deemed to have entered the time scale applicable to the civil post with effect from the same date. The military duty shall count for increments to which he shall be eligible in the time scale in the same manner in which they would have been admissible, if he had not taken up the military duty. On discharge from military duty, he shall, within a period of six months from the date of such discharge, take up his civil post and thereafter undergo such portion of the period of probation as remains after counting the period of military duty under this sub-rule. He shall also undergo such training and pass such tests as may have been prescribed in the Special Rules for the said post, within a period equal to the prescribed period of probation or such other period as may have been prescribed in the said Special Rules from the date of joining the civil post after discharge from military duty:

Provided that the time limit of six months referred in this sub-rule shall not apply to a person who is wounded while on military duty or as a result of such duty is otherwise rendered unfit to take up his civil post within that time. He may take up his civil post after he is declared on medical examination to be fit for duty, within a period of two years or such further period as may be, granted by the appointing authority from the date of his discharge from military duty.

(d) The inclusion of a candidate's name in any list of approved candidates for any service (State or Subordinate) or any class or category in a service shall not confer on him any claim to appointment to the service, class or category. *

{ (e) If an approved candidate selected by the Tamil Nadu Public Service Commission for appointment by direct recruitment fails to join duty ordinarily within three months from the date of receipt of the orders directing him to join duty or with in an earlier date, if so specified by the appointing authority in special circumstances, he shall forfeit his right for appointment to the post and his name shall be removed from the approved list;

Provided that in special circumstances the appointing authority may extend the time limit referred to in this sub-rule up to six months for valid reasons.}

*Added in G.O.Ms.No.857, P&AR (Per.P)
dt.13-9-83, w.e.f.13-9-83

#{Provided further that in very special circumstances and in relaxation of the above proviso, if any candidate is allowed to join duty beyond the time limit of six months, his seniority in that post shall be fixed below the junior most candidate appointed to that post in that service on the date of joining duty of the former.)

Substituted in G.O.Ms.No.353, P&AR (Per.S)
dt.20-6-89, w.e.f.4-5-88

55. Expression "Approved Candidates" has been used in Sub Clause (2) to Rule 2 of Part - I Preliminary of the Tamil Nadu State and Subordinate Service Rules. The expression "Approved Candidates" is also found in Section 3(c) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. Both definitions are reproduced below:-

Rule 2(2) in Part - I Preliminary of the Tamil Nadu State and Subordinate Service Rules	Tamil Nadu Government Servants (Conditions of Service) Act, 2016
"Approved candidate" means a candidate whose name appears in an authoritative list of candidates approved for appointment to any service, class or category.	"approved candidate" means a candidate whose name appears in an authoritative list of candidates approved for appointment to any service, class or category;

56. Meanwhile, the Government of Tamil Nadu by G.O.Ms.No.146, Personnel and Administrative Reforms (S) Department, dated 13.09.2006, amended few provisions of the Tamil Nadu State and Subordinate Services Rules (TNSSS Rules).

57. In the said G.O., in Rule 2 in Part I - Preliminary, Sub Clause 15-A was renumbered as Sub Clause 15-B and for Sub Clause 15-A, a new clause was inserted which defined the expression "Reserve List". Similarly, Section 3(u) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 also defines the expression "Reserve List". Both definitions read as under:-

Clause 15-A in Part I Preliminary of Tamil Nadu State and Subordinate Services Rules	Section 3(u) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016
"Reserve List" shall mean a list which is prepared so as to contain not less than 25% of the candidates of each reservation group including General Turn in the regular list and shall be in force until the regular list is drawn up subsequently.	"Reserve List" means a list which is prepared so as to contain not less than twenty five per cent of the candidates of each reservation group including General Turn in the regular list and shall be in force until the regular list is drawn up subsequently;

58. There is however no definition for the expression "Regular List" in the Tamil Nadu State and Subordinate Service Rules. There is also no definition for the expression "Temporary List".

59. The appointment on temporary basis under Rule 10(a) (i) in Part II - General Rules of the Tamil Nadu State of Subordinate Service Rules contemplates filling up a vacancy in a post borne on the cadre of a service, class or category.

60. Filling up of temporary vacancies under Rule 10(a) (i) in Part II - General Rules of the Tamil Nadu State of Subordinate Service Rules "is guided by public interest owing to emergency to fill up such vacancies immediately and to avoid undue delay in making such appointment in accordance with the provisions of Tamil Nadu State and Subordinate Services Rules and the Special Rules (as in Part III of the Tamil Nadu Services Manual as applicable to the State Government Service).

61. Service of Veterinary Assistant Surgeon (VAS) is a Category 1 Service in Class V in Sub Section (1) to Section 2 - The Tamil Nadu Animal Husbandry Service of the Tamil Nadu Service Manual - Volume II (Special Rules relating to State Services). Class V reads as under:-

1. Constitution. The service shall consist of the following classes and categories of posts, namely:-

Class I
.....

Class V

Category 1 Veterinary Assistant Surgeon,
Junior Research Statistician

62. The Tamil Nadu Service Manual - Volume II (Special Rules relating to State Services) was revised and published on 23.05.2016 by the Government of Tamil Nadu after a massive effort involving all Departments, the Personnel and Administrative Reforms (S) Department.

63. Sub Section 2 to the Section 2 - The Tamil Nadu Animal Husbandry Service deals with the "Appointment" and Sub Section 6 to Section 2 - The Tamil Nadu Animal Husbandry Service deals with "Qualification". The appointment and qualification to the post of Veterinary Assistant Surgeon (VAS) reads as under:-

Class	Category	Posts	Method of Recruitment	Qualification
V	1	Veterinary Assistant Surgeon and Research Statistician	By direct recruitment; or By recruitment by transfer from among the holders of the post of Livestock Inspector, Grade I or Grade II, if no qualified person is available for appointment from Livestock Inspector, Grade I in the Tamil Nadu Animal Husbandry Subordinate Service.	B.V.Sc., degree. (a) B.V.Sc., degree; and (b) Service for a period not less than ten years as Livestock Inspector, Grade I or Grade II or in both.

64. Thus, the appointment to the post of Veterinary Assistant Surgeon is either by way of direct recruitment or by recruitment by transfer from among the holders of the post of Livestock Inspector, Grade I or Grade II, if no qualified person is available for appointment from Livestock Inspector, Grade I in the Tamil Nadu Animal Husbandry Subordinate Service.

65. When the subject appointments were made, there was no definition of "recruitment agency" under the Rules. However, Tamil Nadu Public Service Commission being a Constitutional body, fulfilled the role of recruitment agency.

66. Now under Section 3(t) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the expression "recruitment agency" includes Tamil Nadu Public Service Commission. Section 3(t) reads as under:-

"recruitment agency" means the Tamil Nadu Public Service Commission, the Teachers Recruitment Board, the Tamil Nadu Uniformed Service Recruitment Board, the Tamil Nadu Medical Services Recruitment Board and such other bodies constituted by the Government for selection of candidates for appointment to any service.

67. A similar provision is now there in Section 17 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

68. Both under the erstwhile Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State of Subordinate Service Rules and under Section 17 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, appointments on temporary basis can be made under specified circumstances for period of one year. Both the provisions read almost identically. They are re-produced below:-

Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State of Subordinate Service	Section 17 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016
10. Temporary appointments:- (a) (i) (1) where it is necessary in the public interest owing to an emergency which has arisen to fill immediately a vacancy in a post borne on the cadre of a service, class or category and there would be undue delay in making such appointment in accordance with these rules and the Special Rules, the appointing authority may temporarily appoint a person, who possesses the qualifications prescribed for the post otherwise than in accordance with the said rules. Provided that no appointment @ by direct recruitment under this clause shall be made of any person other than the one sponsored by the Tamil Nadu Public Service Commission from its regular or reserve list of successful candidates to any of the posts within the purview of the Tamil Nadu Public Service Commission. @ (Added Vide G.O.Ms.No.21, P&AR (S) Dept., 23-1-96 w.e.f.23-1-96) Second Proviso omitted vide G.O.Ms.No.146 P&AR(S) Dept. dt. 13.9.2006 w.e.f. 16.8.82	17. Temporary appointments-(1) Where it is necessary in the public interest owing to an emergency which has arisen to fill immediately a vacancy in a post borne on the cadre of a service, class or category and there would be undue delay in making such appointment in accordance with the provisions of this Act and the special rules, the appointing authority may temporarily appoint a person, who possesses the qualifications prescribed for the post otherwise than in accordance with this Act and the said rules: Provided that no appointment by direct recruitment under this section shall be made of any person other than the one sponsored by the Commission from its regular or reserve list of successful candidates to any of the posts within the purview of the Commission:

Provided ** further that appointment by direct recruitment under this clause (1) in respect of posts within the purview of Tamil Nadu Public Service Commission shall be made, only where new posts with new qualifications are created temporarily and where the Tamil Nadu Public Service Commission does not have a regular or reserve list of successful candidates for sponsoring.

** Substituted vide
G.O.Ms.No.146 P&AR(S) Dept.
dt. 13.9.2006 w.e.f. 16.8.82

(ii) Where it is necessary to fill a short vacancy in a post borne on the cadre of service, class or category and the appointment of the person who is entitled to such appointment under these rules and the Special Rules, would involve excessive expenditure on travelling allowance or exceptional administrative inconvenience, the appointing authority may appoint any other person who possess the qualifications, if any prescribed for the said service, class or category.

*(iii) A person appointed under clause (i) shall be replaced as soon as possible by a member of a service or an approved candidate qualified to hold the post under the rules, and in any case, he shall not be continued for a period of more than one year from the date of his temporary appointment;

Provided further that appointment by direct recruitment under this section in respect of posts within the purview of the Commission shall be made, only where new posts with new qualifications are created temporarily and where the Commission does not have a regular or reserve list of successful candidates for sponsoring.

(2) Where it is necessary to fill a short vacancy in a post borne on the cadre of service, class or category and the appointment of the person who is entitled to such appointment under this Act and the special rules, would involve excessive expenditure on travelling allowance or exceptional administrative inconvenience, the appointing authority may appoint any other person who possess the qualifications, if any prescribed for the said service, class or category.

(3) A person appointed under sub-section (1) shall be replaced as soon as possible by a member of a service or an approved candidate qualified to hold the post under this Act, and in any case, he shall not be continued for a period of more than one year from the date of his temporary appointment.

*(Substituted vide
G.O.Ms.No.21, P &AR (S)
Dept., 23-1-96 w.e.f.23-1-96)

(iv) where it is necessary to appoint an officer against whom an enquiry into allegations of corruption or misconduct is pending, the appointing authority may appoint him temporarily, pending enquiry into the charges against him. The competent authority shall have discretion to make regular appointment in suitable cases.

(v) A Person appointed under clause (i), (ii) or (iv) shall not be regarded as a probationer in such service, class or category or be entitled by reason only of such appointment to any preferential claim to future appointment to such service, class or category. The services of a person appointed under clause (i), (ii) or (iv) shall be liable to be terminated by the appointing authority at any time without notice and without any reason, being assigned.

#(b) and (bb): Omitted.

#(Vide G.O.Ms.No21, P&AR (S)
Dept., dt.23-1-96 w.e.f. 23-
1-96)

(4) Where it is necessary to appoint an officer against whom an enquiry into allegations of corruption or misconduct is pending, but no charge sheet has been filed in the criminal case or where no charge under sub-rule (b) of rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules have been framed or no proceedings before the Tribunal for Disciplinary Proceedings is pending, the appointing authority may appoint him temporarily pending enquiry into the allegations against him.

(5) A person appointed under sub-sections (1), (2) or (4) shall not be regarded as a probationer in such service, class or category or be entitled by reason only of such appointment to any preferential claim to future appointment to such service, class or category. The services of a person appointed under sub-sections (1), (2) or (4) shall be liable to be terminated by the appointing authority at any time without notice and without any reason being assigned.

(c) A person appointed to any part-time post created in lieu of a whole time post borne on the cadre of a service, class or category shall not be regarded as a probationer in such service nor shall be entitled by reason only of such appointment to any preferential claim to future appointment to such service, class or category.

(d) Notwithstanding anything contained in these rules, if and when a temporary post is created as addition to the cadre of any service, class or category and the holder thereof is required by the State Government to possess any special qualifications, knowledge or experience, any person who possess such qualifications, knowledge or experience and is considered to be best fitted to discharge the duties of such post may, irrespective of other considerations, be appointed to that post by the appointing authority, but the person so appointed shall not, by reason only of such appointment, be regarded as a probationer in such appointment, be regarded as probationer in such service, class or category nor shall he acquired hereby any preferential right to future appointment to such service, class or category.

(6) A person appointed to any part-time post created in lieu of a whole time post borne on the cadre of a service, class or category shall not be regarded as a probationer in such service nor shall be entitled by reason only of such appointment to any preferential claim to future appointment to such service, class or category.

(7) Notwithstanding anything contained in this Act, if and when a temporary post is created as addition to the cadre of any service, class or category and the holder thereof is required by the Government to possess any special qualification, knowledge or experience, any person who possesses such qualification, knowledge or experience and is considered to be best fitted to discharge the duties of such post may, irrespective of other considerations, be appointed to that post by the appointing authority, but the person so appointed shall not, by reason only of such appointment, be regarded as a probationer in such service, class or category nor shall he acquire any preferential right to future appointment to such service, class or category.

69. Rule 10-A in Part II - General Rules of the Tamil Nadu State and Subordinate Services Rules deals with Recruitment to posts, which are outside the purview of the Tamil Nadu Public Service Commission. Rule 10-A in Part II - General Rules of the Tamil Nadu State and Subordinate Services Rules is also reproduced below:-

10-A. Recruitment to posts, which are outside the purview of the Tamil Nadu Public Service Commission.- (a) Where the posts are outside the purview of the Tamil Nadu Public Service Commission, recruitment shall be made only by calling for names of eligible candidates from the Employment Exchange. In respect of specialised posts for which candidates are not available with the Employment Exchange, the appointing authority shall get a certificate of a non-availability from the Employment Exchange, and call for applications from eligible candidates by advertising the posts in prominent daily newspapers giving the number of vacancies and indicating the qualifications, etc.

Provided that this sub-rule shall not apply in the case of appointments of dependants of Government Servants who die in harness, or the Government servants who retire from service on medical invalidation before obtaining the age of fifty three years

Provided also that notwithstanding anything contained in the first proviso, the appointing authority shall make temporary appointment by direct recruitment through the Employment Exchange, for the posts of Typist and Steno-typist (Grade III) in the Tamil Nadu Ministerial Service and for the post of Typist in Tamil Nadu Secretariat Service, as a onetime measure to overcome the difficulty in filling-up the vacancies for the above posts due to the ban on direct recruitment that existed between the 29th November 2001 and the 7th February 2006

(b) The candidates to be appointed shall be selected on the basis of merit by the appointing authority, or by an officer designated by the appointing authority or by a Committee of Officers not exceeding three duly constituted by the appointing authority, subject to the rule of reservation of posts wherever applicable after subjecting the

candidates to an oral interview and, if necessary, a short written test which can be evaluated in a short time.

70. The appointing authority can appoint such a person temporarily who possesses such prescribed qualifications for the post, otherwise than in accordance with the said Rules. Thus, a person already in service may be appointed temporarily to fill up the vacancies under Rule 10-A.

71. No appointment by direct recruitment under Sub Clause (1) can be made of any person other than the one who is sponsored by the Tamil Nadu Public Service Commission (TNPSC) from its regular or reserve list of successful candidates to any of the posts within the purview of the Tamil Nadu Public Service Commission.

72. The first proviso to Rule 10(a)(i) of Part II - General Rules of the Tamil Nadu State and Subordinate Services Rules puts a restriction on "Direct Recruitment" on temporary basis.

73. As per Section 2(2) - The Tamil Nadu Animal Husbandry Service of Tamil Nadu Service Manual, Volume II, a holder of the post of Livestock Inspector, Grade I can be appointed to the posts of Veterinary Assistant Surgeon and Junior Research Statistician by way of recruitment by transfer or if no qualified person is available for appointment from Livestock Inspector, Grade I in the Tamil Nadu Animal Husbandry Subordinate Service, a holder of the post of Livestock Inspector, Grade II can be appointed. However, in case of direct recruitment, it has to be only from the regular or reserve list of the successful candidates of the Tamil Nadu Public Service Commission.

74. The second proviso to Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State and Subordinate Services Rules gives another exception. Appointment by direct recruitment can also be made in respect of posts within the purview of Tamil Nadu Public Service Commission, where_

- i. new posts with new qualifications are created temporarily; and
- ii. the Tamil Nadu Public Service Commission does not have a regular or reserve list of successful candidates for sponsoring.

75. As per Rule (10)(a)(iii) of the General Rules for Tamil Nadu State and Subordinate Services, a person appointed under Sub Clause (i) shall be replaced as soon as possible by a member of a service or an approved candidate qualified to

hold such post under the Rules and in any case, such a person shall not be continued for a period of more than one year from the date of his/her temporary appointment.

76. As per Rule (10)(a)(iv) of the General Rules for Tamil Nadu State and Subordinate Services, where it is necessary to appoint an officer against whom an enquiry into allegations of corruption or misconduct is pending, the appointing authority may appoint him temporarily, pending enquiry into the charges against him. The competent authority shall have discretion to make regular appointment in suitable cases.

77. Thus, there is no question of candidates being sponsored by the Employment Exchange without they being either in the reserve list or in the regular list of the Tamil Nadu Public Service Commission for appointment on temporary basis under Rule 10(a)(i) of the General Rules of the Tamil Nadu State and Subordinate Services Rules.

78. Keeping these provisions, I shall now refer to the Notifications which are relevant for these cases.

79. By Advertisement No.188 dated 25.02.2009, the Tamil Nadu Public Service Commission called for applications to fill up the 59 vacancies for the year 2007-2008 for the post of Veterinary Assistant Surgeon (VAS) in the Tamil Nadu Animal Husbandry Service (Service Code 019).

80. The aforesaid 59 vacancies of Veterinary Assistant Surgeon (VAS) included 5 carried forwarded vacancies relating to physically handicapped candidates (i.e. Ortho - 2 and Deaf - 3). These were permanent vacancies to the sanctioned post of Veterinary Assistant Surgeon.

81. By G.O.(Ms) No.23, Animal Husbandry, Dairying and Fisheries Department, dated 27.02.2009, the Government of Tamil Nadu approved for appointment of 444 Junior Veterinary Assistant Surgeons (JVAS) for the year 2009 by direct recruitment to be selected by the Tamil Nadu Public Service Commission.

82. After the issuance of the said G.O.(Ms) No.23, Animal Husbandry, Dairying and Fisheries Department, dated 27.02.2009, a subsequent Recruitment Notification was thus issued on 28.02.2009 for filling up 444 vacancies of Junior Veterinary Assistant Surgeon (JVAS).

83. Though copy of G.O.(Ms) No.23, Animal Husbandry, Dairying and Fisheries Department, dated 27.02.2009 has been neither filed nor is available in the website of the respondent Commission, a reference to it has been made in paragraph No.2 in G.O.(2D) No.42, Animal, Dairying and Fisheries (AH7) Department, dated 28.05.2013 which reads as

under:-

2. In the Government Order second read above, the Government have approved the list of 444 candidates selected by the Tamil Nadu Public Service Commission for appointment by direct recruitment as Junior Veterinary Assistant Surgeon for the year 2009. The Commissioner of Animal Husbandry and Veterinary Services was also directed to issue appointment order to the above 444 candidates following certain guidelines. The Commissioner of Animal Husbandry and Veterinary Services has also issued appointment orders and all the candidates joined duty.

84. By G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011, the Government of Tamil Nadu after examining the proposals sent by the Director of Animal Husbandry and Veterinary Services decided to create additionally 585 posts (200 + 385) of Veterinary Assistant Surgeons to be filled up on a temporary basis for a period of one year through Employment Exchange under Rule 10 (a) (i) in Part - II General Rule of the Tamil Nadu State and Subordinate Service Rules in regular time scale of pay.

85. About 200 posts of Veterinary Assistant Surgeons were permitted to be created for the Rural Veterinary Dispensaries upgraded vide G.O.(3D) No.2, Animal Husbandry, Dairying and Fisheries (AH3) Department, dated 25.02.2011.

86. The Government of Tamil Nadu in the above G.O. also permitted the Director of Animal Husbandry and Veterinary Services to fill up the 258 vacant posts of Veterinary Assistant Surgeons through the Employment Exchange under Rule 10(a) (i) in Part - II General Rule of the Tamil Nadu State and Subordinate Service Rules in regular time scale of pay.

87. In the said G.O.(Ms)No.137, the Government of Tamil Nadu gave certain instructions to fill up 843 (585 + 258) vacant posts of Veterinary Assistant Surgeons as detailed below:-

6. The Director of Animal Husbandry and Veterinary Services is permitted to fill up the 258 vacant posts of Veterinary Assistant Surgeons through the Employment Exchange under Rule 10(a) (i) of the General Rule of Tamil Nadu State and Subordinate Services in regular time scale of pay.

7.....

8. The Director of Animal Husbandry and Veterinary Services is also instructed to fill up the 843 posts of Veterinary

Assistant Surgeons (585+258) through Employment Exchange under Rule 10(a)(i) of the General Rule of Tamil Nadu State and Subordinate Service in regular time scale of pay. The recruitment from the Employment Exchange will be done following the Employment Seniority and in accordance with the Communal roster guidelines. The Director of Animal Husbandry and Veterinary Services may also be instructed that before filling up of the posts through Employment Exchange, the candidates in the reserve list / regular list of Tamil Nadu Public Service Commission should be adjusted.

88. This G.O. was partly contrary to Rule 10(a)(i) of the aforesaid Rules as temporary appointment were permissible only for the regular and reserve list of the Tamil Nadu Public Service Commission. No direct recruitment of candidates sponsored by the Employment Exchange was permissible.

89. However, to the extent, it recognised the priority to be given to the candidates who were in reserve list / regular list of the Tamil Nadu Public Service Commission which was in accordance with the first proviso to Rule 10(a)(i) of the aforesaid Rules.

90. Thus, the proposal for creating 585 posts (200 + 385) of Veterinary Assistant Surgeons initially for a period of one year temporarily and for filling up the same through Employment Exchange under Rule 10(a)(i) of the General Rule of Tamil Nadu State and Subordinate Service in regular time scale of pay and further proposal to fill up 258 vacant posts of Veterinary Assistant Surgeons through Employment Exchange under Rule 10(a)(i) of the General Rule of Tamil Nadu State and Subordinate Service in regular time scale of pay, permitted to be filled up were contrary to Rule 10(a)(i) of the General Rule of Tamil Nadu State and Subordinate Service.

91. Before issuing the above Notification, the Government ought to have amended the General Rule of Tamil Nadu State and Subordinate Service if the Tamil Nadu Public Service Commission did not have 843 names in its reserve and regular list.

92. Paragraph No.8 of the said G.O.(Ms)No.137 which has been extracted above clearly stated that before filling up the posts through Employment Exchange under Rule 10(a)(i) of the General Rule of Tamil Nadu State and Subordinate Service, the candidates in the reserve list / regular list of Tamil Nadu Public Service Commission should first be adjusted.

93. Paragraph No.3(ii) and Paragraph No.6 of G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7)

Department, dated 14.11.2011 are reproduced below:-

Paragraph 3(ii)	Paragraph 6
3.The Government after careful examination accepts the proposal of the Director of Animal Husbandry and Veterinary Services and following orders are issued:- (i) (ii) Creation of 585 posts (200 + 385) of Veterinary Assistant Surgeons initially for a period of one year temporarily and filling these posts through Employment Exchange under Rule 10(a)(i) of the General Rule of Tamil Nadu State and Subordinate Services in regular time scale of pay.	6. The Director of Animal Husbandry and Veterinary Services is permitted to fill up the 258 vacant posts of Veterinary Assistant Surgeons through the Employment Exchange under Rule 10(a)(i) of the General Rule of Tamil Nadu State and Subordinate Services in regular time scale of pay.

94. First priority was to be given to those candidates who were in the reserve list / regular list of Tamil Nadu Public Service Commission and only thereafter candidates sponsored by the Employment Exchange could be made. The direct recruitment of candidates sponsored by the Employment Exchange was contrary to Rule 10(a)(i) of the aforesaid Rules.

95. Thus, the persons who were sponsored by the Tamil Nadu Public Service Commission from the reserve list / regular list kept from the earlier competitive exams held by the Tamil Nadu Public Service Commission, alone were to be first filled up, whereas, balance vacancies were sought to be filled up directly without any examinations.

96. There is no indication whether any separate examination was conducted pursuant to G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011. It appears unlikely as the post was a temporary post for a period of one year.

97. It appears that about 798 candidates were issued with appointment letter and only 747 candidates joined the post of Veterinary Assistant Surgeon on various dates. The records also indicate that only 636 candidates are presently working as Veterinary Assistant Surgeons as 111 candidates did not continue in service.

98. Exams for 503 post of Veterinary Assistant Surgeon and Junior Veterinary Assistant Surgeon was held on 31.05.2009. Number of candidates who appeared for preliminary, main and oral examinations is available in Annexure II of the Annual Report of the Tamil Nadu Public Service Commission for the year 2009-2010.

99. Relevant extract from Annexure II of the Annual Report of the Tamil Nadu Public Service Commission for the year 2009-2010 reads as under:-

Name of the post / service	No. of Vacancies	No. of Applications received	No. of candidates admitted in Main Exam	No. of Candidates admitted to Oral Test	No of candidates selected
VAS & JVAS	503*	1294	1263	946	485

* (59 + 444)

100. Thus, 18 (503 - 485) vacancies were not filled up. About 25% from the regular list were to be kept in the reserve list in terms of Rule 2(15-A) of the Tamil Nadu State and Subordinate Services Rules for the purpose of Rule 10(a)(i) of the Rules. These petitioners in Table Nos.1, 2 and 3 were not selected. Had they been selected in 2009-10, pursuant to exam held on 31.5.2009, question of they being appointed on temporary basis does not arise.

101. It is also not clear whether the names were in the reserve list. Neither the petitioners nor the respondents have filed a copy of the reserve list. They have left the court guessing.

102. Only 126 names would have been there in the reserve list being 25% of 503. Only these names in the reserve list could have been appointed under Rule 10(a)(i) of the aforesaid Rules on temporary basis.

103. It is not clear how more than 126 vacancies from the reserve/regular list would have been appointed under Rule 10(a)(i) of the General Rule of Tamil Nadu State and Subordinate Service.

104. Pursuant to the issuance of G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011, 798 candidates were selected. Not only candidates who remained unsuccessful who appeared in the previous exams on 31.5.2009 but also candidates who were sponsored by the Employment Exchange, were selected on temporary basis under Rule 10(a)(i) of the Rules.

105. The appointment of these 798, out of which 636 are still serving is contrary to Rule 10(a)(i) in Part - II General Rule of the Tamil Nadu State and Subordinate Service Rule. As mentioned above, if the Government wanted to dilute Rule 10(a)(i) in Part - II General Rule of the Tamil Nadu State and Subordinate Service Rule, it should have amended it before issuing G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011.

106. Meanwhile, by G.O. (Ms) No.2, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 05.01.2012, the Government of Tamil Nadu upgraded the post of Junior Veterinary Assistant Surgeons as Veterinary Assistant Surgeons and ordered that there will not be any recruitment of Veterinary Doctors in the cadre of Junior Veterinary Assistant Surgeon in future as the post of the Assistant Veterinary Surgeon / Veterinary Assistant Surgeon have same qualification and same mode of recruitment and similar nature of work, but carry different scale of pay which creates disparity and complications.

107. The Secretary of the Tamil Nadu Public Service Commission vide Letter No.1311/OTD-A4/2007, dated 07.03.2012 stated that 11 candidates in the supplementary list were selected to the post of Junior Veterinary Assistant Surgeon in the Tamil Nadu Animal Husbandry Service, against the vacancies caused due to failure of candidates from the regular list to join duty / express their unwillingness / relieved from the post of Junior Veterinary Assistant Surgeon.

108. The Secretary also stated that all the candidates who were selected for the post of the Veterinary Assistant Surgeon 2007-2008 joined duty in the said post and the operation of reserve list for the said post of Veterinary Assistant Surgeon did not arise.

109. Meanwhile, one of the candidates named Dr.R.Vijayakumar filed W.P.No.4857 of 2012 for issuance of a Writ of Mandamus, to direct the second respondent Director of Animal Husbandry and Veterinary Subordinate Services to select the Veterinary Assistant Surgeons as per the guideline norms fixed in Clause 8 of the G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 issued by the first respondent, the Secretary of Animal Husbandry, Dairying and Fisheries Department and to consider the representation of the petitioner therein dated 15.02.2012 and 16.02.2012.

110. Dr.R.Vijayakumar stated that he appeared in the competitive exam conducted and his name was in the reserve list after the oral test was held on 04.11.2009 pursuant to the Notification / Advertisement dated 25.02.2009 / 28.02.2009 issued for filling up the 503 (59 + 444) posts of Veterinary Assistant Surgeon (VAS) and Junior Veterinary Assistant

Surgeon (JVAS) during the year 2009.

111. By an order dated 19.06.2012, this Court in W.P.No.4857 of 2012, taking note of the Rule 10(a)(i) of the General Rule of Tamil Nadu State and Subordinate Service and Paragraph No.8 of the G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011, allowed W.P.No.4857 of 2012 filed by Dr.R.Vijayakumar with the following observations:-

12. Accordingly, the writ petition is allowed, directing the third respondent - Service Commission to forward the list of candidates, who were included in the reserve list for selection of the post of Veterinary Assistant Surgeons for the year 2007-2008, within a period of two weeks from the date of receipt of a copy of this order. The persons whose names are so sponsored by the Tamil Nadu Public Service Commission shall be appointed first against the newly created 585 posts of Veterinary Assistant Surgeons. Till this exercise is carried out, any further appointment on temporary basis shall be stopped. No cost. Consequently, connected miscellaneous petition is closed.

112. Pursuant to the above order dated 19.06.2012 in W.P.No.4857 of 2012, the Secretary of Tamil Nadu Public Service Commission vide Letter No.1311/OTD-A4/2009, dated 21.08.2012, stated that Dr.R.Vijayakumar the petitioner in W.P.No.4857 of 2012 was placed in the reserve list and sent the reserve list of 23 candidates published for the post of Veterinary Assistant Surgeon in Tamil Nadu Animal Husbandry Subordinate Services for the year 2007-2008.

113. Subsequently, G.O. (4D) No.6, Animal Husbandry, Dairying and Fisheries Department, dated 13.09.2012 was issued approving a reserve list of 23 candidates for being appointed as Veterinary Assistant Surgeons on temporary basis against the newly created 585 Veterinary Assistant Surgeon posts.

114. Since Dr.R.Vijayakumar was not issued with an appointment letter, he filed a Contempt Petition No.1640 of 2012 in W.P.No.4857 of 2012 before this Court. This Court by an interim order directed as follows:-

3. I should point out here that the main reasons for allowing the writ petition was that there cannot be an appointment through Employment Exchange or otherwise, when candidates selected by Tamil Nadu Public Service Commission and kept in the

Reserve List are waiting in the wings. I had also pointed out the rule 10(a)(iii) of the Rules mandates even temporary vacancies to be filled up only from the list of candidates selected by Tamil Nadu Public Service Commission. Therefore, the underlying principle behind my order was very clear, but does not appear to have been understood in its true spirit.

4. Therefore, the respondents are directed to operate the Reserve List even in respect of Junior Veterinary Assistant Surgeons, as the selection was held common and as both posts have now merged together. The respondents shall pass orders within a period of three weeks. Post on 22.04.2013 for reporting compliance.

115. Pursuant to the above, the Secretary of Tamil Nadu Public Service Commissioner vide Letter No.1311/OTD-A4/2009, dated 17.04.2013, sent a reserve list of 172 candidates in various communal categories with reference to their merit. Copy of the reserve list has neither been filed by the petitioners nor the respondent. However, there is a reference to the above fact in G.O.(2D) No.42 dated 28.5.2013.

116. The position of the candidates under each category was mentioned with reference to the relative merit of the candidates as there was a likelihood of a same candidate being placed under various categories. This aspect was directed to be taken into account when appointing the candidate temporarily under Rule 10(a)(i) of the General Rule for Tamil Nadu State and Subordinate Service as per the said G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011.

117. Out of the 172 candidates, the names of 54 candidates were said to have been repeated in the list under the categories of General Turn, Backward Community, Most Backward Community / Denotified Community, General Turn-Women and Backward Community - Women.

118. It was stated that the actual reserve list of candidates was 117 (172 - 55). It was further stated that out of 117 candidates, 88 persons had already been appointed under Rule 10(a)(i) of the General Rule for Tamil Nadu State and Subordinate Service from the list sponsored by the Employment Exchange.

119. Subsequently, G.O.(2D) No.42, Animal, Dairying and Fisheries (AH7) Department, dated 28.05.2013 was issued by the Government of Tamil Nadu. In the said G.O.(2D) No.42, the

Government approved the names of 117 candidates of Junior Veterinary Assistant Surgeon (JVAS) in the reserve list sent by the Tamil Nadu Public Service Commission.

120. It was further stated that out of 117 reserve candidates, 88 persons had already been appointed under Rule 10(a)(i) of the General Rule for Tamil Nadu State and Subordinate Service from the list sponsored by the Employment Exchange though Rule 10 in Part II - General Rules of the Tamil Nadu State and Subordinate Services Rules does not contemplate the appointment through Employment Exchange.

121. The Government of Tamil Nadu therefore directed to issue the revised appointment orders to 88 persons who were already appointed under Rule 10(a)(i) of the General Rule for Tamil Nadu State and Subordinate Service from the list sponsored by the Employment Exchange and issued appointment order to the remaining 29 candidates newly under the said rule as per the TNPSC seniority.

122. This was ostensibly in terms of Paragraph No.8 of G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 which was referred in the order dated 19.06.2012 in W.P.No.4857 of 2012 filed by Dr.Vijayakumar R.

123. In the said G.O., the Director of Animal Husbandry and Veterinary Services was directed to follow the guidelines given in paragraph Nos.4 and 5 of the G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011.

124. Meanwhile, the petitioners in Table Nos.1 to 3 had been issued with appointment letters pursuant to said G.O.(Ms) No.137, dated 14.11.2011.

125. Some of the candidates who were neither in the reserve list pursuant to Recruitment Notification dated 25.02.2009 / 28.02.2009 nor sponsored by the Employment Exchange Board filed W.P.(MD) No.1666 of 2012 to direct the second respondent Assistant Director, Professional Executive Employment Branch Officer, Alagarkovil Road, K.Pudur, Madurai, to sponsor the name of the petitioners therein to the first respondent Director of Animal Husbandry and Veterinary Service, Directorate of Animal Husbandry and Veterinary Services, Anna Salai, Teynampet, Chennai - 18, to the post of Veterinary Assistant Surgeon.

126. The batch of Writ Petitions came to be disposed by the Madurai Bench of this Court on 12.09.2012 in W.P.(MD) Nos.1666, 2093, 1646 & 374 of 2012. The learned Single Judge referred to the following decisions while passing the above order dated 12.09.2012:-

i. Excise Superintendent, Malkapatnam, Krishna

- District, A.P. Vs. K.B.N. Visweshwara Rao and others, (1996) 6 SCC 216.
- ii.State of Orissa and Another Vs. Mamata Mohanty, 2011 (2) S.C.T. 718.
 - iii.Delhi Development Horticulture Employees' Union Vs. Delhi Administration, Delhi & others, AIR 1992 SC 789.
 - iv.State of Haryana and others Vs. Piara Singh and others, AIR 1992 SC 2130.
 - v.Arun Tewar and others Vs. Zila MansaviShilshak Sangh and others, AIR 1998 SC 331.
 - vi.Binod Kumar Gupta and others Vs. Ram AshrayMahoto and others, AIR 2005 SC 2103.
 - vii.National Fertilizers Ltd. and others Vs. Somvir Singh, AIR 2006 SC 2319.
 - viii.Telecom District Manager and others Vs. Keshab Deb, (2008) 8 SCC 402.
 - ix.State of Bihar Vs. Upendra Narayan Singh and others, (2009) 5 SCC 65.
 - x.State of Madhya Pradesh and another Vs. Mohd. Ibrahim, (2009) 15 SCC 214.
 - xi.P.M.Malathi Vs. State of Tamil Nadu and others, 2012 (3) M.L.J. 669.

127. The learned Single Judge examined various Government Orders referred to supra including G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 and held as follows:-

26. Therefore, any appointment merely by inviting names from the Employment Exchange does not meet the requirement of Articles 14 and 16 of the Constitution of India, as it violates the mandate of Articles 14 and 16 of the Constitution of India, and result in depriving of eligible candidates having the requisite qualification for the post from being considered.

27. The impugned part of the Government Order in G.O.Ms.No.137Animal Husbandry Dairying and Fisheries (AH7) Department dated 14.11.2011, directing the posts to be filled up only through Employment Exchange under Rule10(a)(i) of the General Rule of Tamil Nadu State and Subordinate Services is ultra vires the Constitution being hit by Articles 14 and 16 of the Constitution of India. The Government order, therefore, cannot stand the test of constitutional mandate of equality as enshrined in the fundamental rights guaranteed under the

Constitution of India.

28. The G.O.Ms.No.137 Animal Husbandry Dairying and Fisheries (AH7) Department dated 14.11.2011, is otherwise also arbitrary as Rule 10(a)(i) of the General Rule of Tamil Nadu State and Subordinate Services does not permit the filling up newly created posts through Employment Exchanges. Rule 10-A of the General Rule of Tamil Nadu State and Subordinate Services is ultra vires the Constitution of India, being violative of Articles 14 and 16 of the Constitution of India, as it stipulates filling up of the posts through Employment Exchange, without wide publicity so as to give opportunity to all eligible person to compete for selection on merit.

29. For the reasons stated, all these writ petitions are allowed and selection of Veterinary Assistant Surgeon is quashed. A Writ, in the nature of Mandamus is issued, directing the respondents to fill up the posts of Veterinary Assistant Surgeon, by following the Constitutional Mandate, by advertising the posts in the newspapers and other media, besides calling for names from Employment Exchange and thereafter, select the candidates on merits by fixing the criteria of selection as per decision of State Government.

128. Thus, the decision of the Secretary of Animal Husbandry, Dairying and Fisheries Department in Paragraph No.8 in G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 was set aside in so far as 585 vacancies created.

129. The decision of the learned Single Judge however failed to note that the post under Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State and Subordinate Service Rules was itself temporary post and only those candidates from the reserve list / regular list of Tamil Nadu Public Service Commission alone were eligible to be appointed on temporary basis.

130. The said decision was appealed before the Division Bench of Madurai Bench of this Court in W.A. (MD) No.818 of 2012 etc. batch and W.A. (MD) No.176 of 2013 etc. batch both by the candidates were adversely affected by it and the Director of Animal Husbandry and Veterinary Services and the Professional Executive Employment Branch Offices

131. The said Writ Appeal along with a batch of Writ Petitions which came to be filed subsequently were disposed by a Common Judgment dated 22.01.2016.

132. I shall refer to the same later in the course of narration as after the date of filing of the above writ appeals, several Notifications came to be issued and several Writ Petitions came to be filed. All these were disposed by the Division Bench by its Common Judgment dated 22.01.2016.

133. During the interregnum, Notification No.05/2013 dated 08.03.2013 was issued by the Tamil Nadu Public Service Commission for filling up the permanent vacancies of 916 + 1 c/f MBC/DC (Ortho) to the post of the Veterinary Assistant Surgeon (2012-2013) (Code No.1695).

134. W.P.(MD) No.4883 of 2013 etc. batch were filed to quash the Notification No.05/2013 dated 08.03.2013 and to consequently direct the respondent to conduct a Special Qualifying Examination for the petitioners therein for permanent absorption as Veterinary Assistant Surgeons.

135. These writ petitions were filed by persons appointed as temporary Veterinary Assistant Surgeons pursuant to G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011. This was disposed by the Division Bench by its Common Judgment dated 22.01.2016.

136. Still later, the Government of Tamil Nadu issued G.O. (Ms) No.104, Animal Husbandry, Dairying and Fisheries (AH-7) Department, dated 20.05.2014.

137. In The G.O.Ms.No.104, Animal Husbandry, Dairying and Fisheries (AH-7) Department, dated 20.5.2014, it was decided to conduct a special test by Tamil Nadu Public Service Commission for 636 Veterinary Assistant Surgeons who were appointed on temporary basis in terms of the G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 under Rule 10(a)(i) of General Rules for Tamil Nadu State and Subordinate Services, to permanently absorb them into regular stream. It was further stated that their appointment is the subject matter of the W.A. (MD) No.818 of 2012 etc. batch.

138. As per G.O. (Ms) No.104, Animal Husbandry, Dairying and Fisheries (AH-7) Department, dated 20.05.2014, the Tamil Nadu Public Service Commission was also requested to fill up the remaining 385 vacancies of Veterinary Assistant by conducting a general test.

139. Thus, an attempt was made to fill up the vacancies permanently by regularising the temporary appointments pursuant to G.O. (Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011.

140. In the said G.O. (Ms) No.104, Animal Husbandry, Dairying and Fisheries (AH-7) Department, dated 20.05.2014, the Director of Animal Husbandry and Veterinary Services was directed to furnish the details of the 636 Veterinary Assistant Surgeons who were appointed on temporary basis. The said G.O. (Ms) No.104, Animal Husbandry, Dairying and Fisheries (AH-7) Department, dated 20.05.2014, was the subject matter of the W.P.(MD) No.24842 of 2015 etc. batch. These Writ Petitions were also disposed by the Division Bench by its Common Judgment dated 22.01.2016.

141. The Division Bench after examining the case laws, disposed the W.A. (MD) No.818 of 2012 etc. batch, W.A.(MD) No.176 of 2013 etc. batch, W.P. (MD) No.4883 of 2013 etc. batch and W.P.(MD) No.24842 of 2015 etc. batch by a Common Judgment dated 22.01.2016.

142. In the said Common Judgment dated 22.01.2016, the Division Bench classified the cases into four categories as follows:-

Category I	Appellants in W.A. (MD) No.818 of 2012 etc. batch filed by the appointees [arising out of the order dated 12.09.2019 in W.P.(MD) No.1666 of 2012 etc. batch]	G.O. (Ms) No.137, dated 14.11.2011
Category II	Appellants in W.A. (MD) No.176 of 2013 etc. batch. filed by the Director of Animal Husbandry and Veterinary Services and the Profession Executive [arising out of the order dated 12.09.2012 in W.P. (MD) No.374 of 2012 etc.	G.O. (Ms) No.137, dated 14.11.2011
Category III	Petitioners in W.P.(MD) No.4883 of 2013 etc. batch	Notification No.05/2013, dated 08.03.2013
Category IV	Petitioners in W.P.(MD) No.24842 of 2015 etc	G.O. (Ms) No.104, Animal Husbandry, Dairying and Fisheries (AH-7) Department, dated 20.05.2014

143. The Division Bench after examining all issues, has concluded as follows:-

CONCLUSION:

15. For the foregoing reasons, we pass the following order:

(i) the writ appeals which fall under Category-I [W.A.(MD) Nos.818, 827, 861 and 876 of 2012; 97 and 98 of 2013; 882, 883, 944, 946, 950 and 1020 of 2015] are disposed of with the following observations:

a) the order of the learned Single Judge is set aside on the grounds that it was passed behind the back of the appointees under Rule 10(a)(i) of the Rules; and that the relief granted is not in line with the pleadings made or the relief sought; and

b) it is made clear that the same does not confer any right on the appointees under Rule 10(a)(i) of the Rules, as their appointment without wide publication in newspapers and continuance in service based on interim orders is in gross violation of the constitutional mandate and runs counter to the recruitment process contemplated under the Rules;

(ii) The writ appeals which fall under Category-II [W.A.(MD) Nos.176 to 179 of 2013] are allowed however, in terms of paragraph 15(i) of this judgment;

(iii) The writ petitions falling under Category-III [W.P.(MD) Nos.4883 to 4891, 5844, 5845, 5652 and 5671 of 2013] challenging the Notification No. 05/2013, dated 8.3.2013, which includes the posts of appointees under Rule 10(a)(i) of the Rules are dismissed. However, since the said notification was not acted upon by virtue of the interim order passed by this Court, the Government may pass fresh orders in this regard, as per the direction given in clause (iv) hereunder;

(iv) The writ petitions falling under Category-IV [W.P.Nos.24842 and 31395 of 2015] are allowed and G.O.Ms.No.104, Animal Husbandry, Dairying and Fisheries (AH-7) Department, dated 20.5.2014, is set aside

and the respondents are directed to conduct general competitive test for 1021 posts of Veterinary Assistant Surgeons in Tamil Nadu Animal Husbandry Department strictly adhering to the procedure contemplated under law.

144. Thus, the Division Bench reversed the decision of the learned Single Judge allowing the Writ Appeals by holding that the decision of the learned Single Judge was passed behind the back of the appointees under Rule 10(a)(i) of the Rules and that the relief granted was not in line with the pleadings made or the relief sought and that the same does not confer any right on the appointees under Rule 10(a)(i) of the Rules, as their appointment without wide publication in newspapers and continuance in service based on interim orders was in gross violation of the constitutional mandate and runs counter to the recruitment process contemplated under the Rules.

145. The Division Bench further dismissed the Writ Petitions filed against the Notification No. 05/2013, dated 08.03.2013 wherein it was attempted by the persons appointed under Rule 10(a)(i) of the Rules wanted a special test to be held for them.

146. However, the Court also noted that the said notification was not acted upon by virtue of the interim order passed by this Court and therefore the Government may pass fresh orders in this regard to conduct general competitive test strictly adhering to the procedure contemplated under law.

147. The Division Bench also set aside G.O.Ms.No.104, Animal Husbandry, Dairying and Fisheries (AH-7) Department, dated 20.5.2014 and directed to conduct general competitive test for 1021 posts of Veterinary Assistant Surgeons in Tamil Nadu Animal Husbandry Department strictly adhering to the procedure contemplated under law.

148. The case of the petitioners in W.P.(MD) No.24842 of 2015 etc. batch who were in the Category IV was also considered by the Division Bench with the conclusion in Paragraph No.15(iv) which has been extracted above.

149. The Division Bench further stated that the learned Single Judge has set aside the appointment made under Rule 10(a)(i) of the General Rules for Tamil Nadu State and Subordinate Services without giving an opportunity to the appointees by not impleading them in Writ Petitions.

150. The Division Bench of this Court in the above cases concluded that the learned Single Judge has erroneously set

aside the G.O.Ms.No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 as the petitioners have not challenged the said G.O and sought only for a direction to the Employment to sponsor their names to the Director, Animal Husbandry and Veterinary Services.

151. The said Common Judgment dated 22.01.2016 in W.A. (MD) No.818 of 2012 etc. batch is now subject matter of the further appeal before the Hon'ble Supreme Court in S.L.P. (C) No.7122 of 2016. By an interim order dated 18.04.2016, the Hon'ble Supreme Court held as under:-

Permission to file special leave petitions is granted

Leave granted.

Status quo, obtaining as on today, regarding the service of the appellants shall be maintained.

152. After the order of the learned Single Judge in W.P.No.4857 of 2012 dated 19.06.2012 and the order in Contempt Petition No.1640 of 2012 in W.P.No.4857 of 2012, the Director of Animal Husbandry and Veterinary Services vide Proceedings in Roc.No.49852/M1/2015, dated 16.10.2018 clarified that selection of candidates for appointment through direct recruitment to the post of Veterinary Assistant Surgeon was purely provisional subject to the Writ Petitions pending on the files of the Principal Bench and the Madurai bench and the appointees shall not be entitled to claim any right by virtue of the appointment.

153. However, the services of the some candidates in Annexure to the said Proceedings in Roc.No.49852/M1/2015, dated 16.10.2018, were regularised with effect from the date mentioned in the column 5 to the Annexure and that the seniority will be fixed by Tamil Nadu Public Service Commission.

154. Thereafter, the services of those persons whose services were regularised were placed on probation for a period of two years from the date of regularisation. Those persons should pass Animal Husbandry Department Manual Test, Account Test for Executive Officers and should undergo Foundational Training Course 'B' at Anna Institute of Management, Chennai-28, within the period of probation.

155. Thereafter, yet another Notification dated 18.11.2019 was issued by the Tamil Nadu Public Service Commission in Notification No.32/2019 [Advertisement No.562]. The said Notification was issued to fill up 1141 vacancies (excluding 636 vacancies filled up on temporary basis) of Veterinary Assistant Surgeon which is the subject matter of

W.P.Nos.5103 & 20359 of 2021. The inclusion of the names of some of the candidates who were in the temporary vacancies is being challenged by the petitioners is Table No.4.

156. In these Writ Petitions, it is the case of the petitioners that they are entitled to be treated on par with those who were regularised pursuant to the G.O. (2D) No.42, dated 28.05.2013.

157. An interim order dated 20.01.2020 was passed by this Court in W.P.Nos.853, 836, 857, 856 and 848 of 2020 by directing the respondents to not to finalise the appointments under Notification No.32/2019, dated 18.11.2019.

157. Thereafter, the respondents filed a petition to modify the interim order dated 20.01.2020. By an order dated 18.02.2021, it was ordered as under:-

4. Upon consideration of the submissions and counter submissions, it is seen that 110 petitioners are before this Court at present and the entire appointments have come to a standstill on account of the dispute over 110 posts. In these writ petitions, there is absolutely no necessity for stalling the entire process of filling up of 1141 vacancies. This Court has to act in a balanced manner and render justice to all. Therefore, this Court is inclined to modify the interim order dated 20.01.2020, granted by this Court in W.P.Nos. 853, 836, 857, 865 and 848 of 2020, as under:

- i. The respondents shall proceed with the appointments of 1141 candidates, less / barring 110 posts. Such appointments will be subject to the result of these Writ Petitions;
- ii. In case, the petitioners succeed in these writ petitions, depending upon their regularisation, they can be placed above the candidates selected by this Notification and the selected persons must be informed about the pendency of these Writ Petitions in their appointment order itself, so that they cannot take a plea at a later point of time that they are not aware of these writ petitions. It is open to the selected candidates to get themselves impleaded in the Writ Petitions to oppose the relief sought for in these Writ Petitions.

5. At this juncture, it is represented by the learned Additional Advocate General that the notification has been issued, by excluding 636 vacancies, without prejudice to the rights of the parties and therefore, once again earmarking another 110 posts over and above 636 vacancies is not at all needed. This Court is not inclined to go into that aspect as to whether 636 vacancies earmarked will include these petitioners, numbering 110 and the said aspect will be decided at the time of final hearing of these matters. It is reiterated that without prejudice to the rights of the parties, barring 110 vacancies, others can be appointed.

159. Before proceeding further, I shall first deal with the W.P.Nos.5103 & 20359 of 2021 which are in Table No.4 and thereafter, deal with rest of the Writ Petitions which are in Table Nos.1 to 3.

W.P.Nos.5103 & 20359 of 2021

160. A reading of Notification No.32/2019, dated 18.11.2019 indicates that about 636 vacancies were filled up between 2009 and 2019 as Veterinary Assistant Surgeons.

161. The grievance of the petitioners in these Writ Petitions is that as per the Notification No.32/2019 dated 18.11.2019, applications were invited to fill up 1141 vacancies of Veterinary Assistant Surgeons.

162. It is the case of the petitioners that the said Notification specifically excludes 636 Veterinary Assistant Surgeons vacancies filled up temporarily in terms of G.O.Ms.No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011.

163. It is further case of these petitioners in W.P.Nos.5103 & 20359 of 2021 that though the Notifications specifically excludes the 636 vacancies filled up temporarily, about 180 candidates from 636 candidates who were appointed and are working temporarily in term of G.O.Ms.No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011, appeared in the examination and were selected pursuant to Notification No.32/2019 dated 18.11.2019 and it is therefore arbitrary and illegal.

164. In my view, there is no merit in the challenge in these Writ Petitions. Those Veterinary Assistant Surgeons who were appointed temporarily in terms of G.O.Ms.No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated

14.11.2011 cannot be denied an opportunity of being appointed permanently meeting the requirement of the Tamil Nadu Service Manual - Volume II (Special Rules relating to State Services). The post of Veterinary Assistant Surgeon is a permanent post. In fact, those who were appointed temporarily, their, services should have come to an end within one year from the date of their appointment.

165. As mentioned above in this order, the selection under Rule 10(a)(i) in Part II -General Rules of the Tamil Nadu State and Subordinate Service Rules was only for a period of one year. The candidates were selected under contingencies that prevailed then though strictly not in accordance with law.

166. They have no right to continue beyond one year on temporary basis and are expected to get themselves appointed permanently by participating in competitive exams and this is what some of them have done. Therefore, their participation in the recruitment pursuant to Notification No. 32/2019 and appointment cannot be questioned by these petitioners.

167. If the arguments of these petitioners in W.P.Nos.5103 & 20359 of 2021 are accepted, then the persons who were selected under Rule 10(a)(i) in Part II -General Rules of the Tamil Nadu State and Subordinate Service Rules would be precluded from participating in the regular selection with no avenue for being selected permanently. It is absurd.

168. The reasons for excluding 636 vacancies in Notification No.32/2019 dated 18.11.2019 was only on account of the order of the Division Bench of this Court in W.A. (MD) No.818 of 2012 etc. batch, dated 22.01.2016 and in the light of the interim order of the Hon'ble Supreme Court in S.L.P.(C) No.7088 of 2016, dated 18.04.2016 by directing the respondents to maintain the status quo.

169. Notification No.32/2019 dated 18.11.2019 was issued to fill up 1141 vacancies permanently as there was demand for Veterinary Assistant Surgeons. These petitioners who have participated in the competitive exams failed to qualify. They cannot blame the candidates who succeeded who were incidentally appointed temporarily earlier under Rule 10(a)(i) in Part II -General Rules of the Tamil Nadu State and Subordinate Service Rules.

170. The Government has factored the pendency of the S.L.P against the order of the Division Bench of this Court in W.A. (MD) No.818 of 2012 etc. batch, dated 22.01.2016 and in view of the status quo ordered on 18.04.2016 by the Hon'ble Supreme Court, issued Notification No.32/2019 dated 18.11.2019.

171. Further, a reading of the Notification No.32/2019 dated 18.11.2019 indicates that it does not prohibit candidates who were selected temporarily under Rule 10(a)(i) in Part II -General Rules of the Tamil Nadu State and Subordinate Service Rules from applying against 1141 permanent vacancies of Veterinary Assistant Surgeons.

172. The reason for excluding 636 vacancies was on account of the pendency of the S.L.P. Notification No.32/2019 dated 18.11.2019 also does not contain an embargo on the candidates from participating who were already in service temporarily in terms of G.O.Ms.No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011.

173. Attempt of these petitioners in W.P.Nos.5103 & 20359 of 2021 to exclude 636 candidates whose appointment is in jeopardy and is subject matter of S.L.P. before the Hon'ble Supreme Court, is uncalled and unwarranted. I do not find any reasons for granting relief to these petitioners in W.P.Nos.5103 & 20359 of 2021.

174. Therefore, W.P.Nos.5103 & 20359 of 2021 are liable to be dismissed and are accordingly dismissed.

Writ Petitions in Table Nos.1 to 3

175. The petitioners in Table Nos.1 to 3 were appointed under Rule 10(a)(i) of Part II - General Rules of the Tamil Nadu State of Subordinate Service Rules.

176. Their appointments were "Temporary Appointments". These petitioners in Table Nos.1, 2 and 3 appear to have participated in the recruitment called for recruiting 503 vacancies consisting of 59 (Veterinary Assistant Surgeon) + 444 (Junior Veterinary Assistant Surgeon) during 2009 pursuant to recruitment Notification dated 25.02.2009 and 28.02.2009.

177. Prior to 2011, the post of a Veterinary Assistant Surgeon (VAS) was under the Tamil Nadu Animal Husbandry Service, while the post of a Junior Veterinary Assistant Surgeon (JVAS) was under the Tamil Nadu Animal Husbandry Sub-Service.

178. The Annual Report of the Tamil Nadu Public Service Commission for the year 2009-2010 which has been extracted above indicates that the recruitment was made pursuant to the Advertisement/ Notification dated 25.02.2009 and 28.02.2009 for 59 posts of Veterinary Assistant Surgeon and 444 posts of Junior Veterinary Assistant Surgeon and 485 candidates were selected. Thus, if the reserve list was prepared from the aforesaid 485, as per Rule 2(15-A) in Part I - Preliminary of the Tamil Nadu State and Subordinate Services Rules, the reserve list would be 121 ($485 \times 25/100 = 121.25$ rounded off to 121) and not 172 or 117.

179. The Director of Animal Husbandry and Veterinary Services vide Letter R.C.No.40000/P1/2011, dated 25.07.2011 sent a proposal to the Government with a request to fill up the 258 vacant posts of Veterinary Assistant Surgeons through the Employment Exchange under Rule 10(a)(i) in Part II -General Rule of the Tamil Nadu State and Subordinate Service Rules in regular time scale of pay.

180. This was impermissible as such recruitment on temporary basis was not sanctioned under Rule 10(a)(i) of the aforesaid Rules as such appointment on temporary basis could be made only from the names in the regular and the reserve list of Tamil Nadu Public Service Commission.

181. Though in letter dated 17.04.2013 bearing reference Letter No.1311/OTD-A4/2009 it has been stated that the Tamil Nadu Public Service Commission had sent 172 names of the candidates from various communal categories with reference to their merit and that there were repetitions of 54 names under various categories of General Turn, Backward Community, Most Backward Community / Denotified Community, General Turn-Women and Backward Community - Women and that the actual number of candidates in the reserve list were 117 and that 88 out of 117 candidates had already been appointed under Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State and Subordinate Services Rules from the list sponsored by the Employment Exchange, it is to be noticed that the reserve list would have been prepared prior to G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 as follows:-

Sl. No	Name of Post	Number of Vacancies	Percentage of Reserve List	Number of Reserve List candidates
1	Veterinary Assistant Surgeon	59	25 % (59 x 25/100)	14.75
2	Junior Veterinary Assistant Surgeon	444	25 % (444 x 25/100)	111
Total				125.75

182. Thus, the communication of the Tamil Nadu Public Service Commission which has been referred in G.O. (2D) No.42, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 28.05.2013 appears to be incorrect.

183. The reserve list would have consisted of 126 (125.75 rounded off to 126). Only 126 candidates would have been directly recruited against total vacancies of 843 on temporary

in terms of G.O.Ms.No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011.

184. The rest of the 717 appointments (i.e. 843 - 126 = 717) to absorb rest of the candidates by way of direct recruitment from those who have sponsored by Employment Exchange was contrary to Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State and Subordinate Service Rules.

185. Thus, the absorption of 717 persons against 843 vacancies (200 + 385 + 258) was contrary to Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State and Subordinate Service Rules. Thus, the appointments of 717 candidates pursuant to the G.O.Ms.No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 were ultravires the Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State and Subordinate Service Rules and therefore that appointments were irregular.

186. On the other hand, the Tamil Nadu Public Service Commission appears to have sent the names of 172 candidates who were in the reserve list and out of 172 candidates, names of the 55 candidates are said to have been repeated and it was further stated that out of 117 candidates (172-55), 88 candidates had already been appointed from the names sponsored by the Employment Exchange and only 29 candidates were to be newly appointed from the reserve list of the Tamil Nadu Public Service Commission.

187. The appointments of 88 candidates out of 117 candidates from the reserve list are without authority of law and therefore, exclusion of 88 persons from 117 candidates whose names in the reserve list were illegal. Only if the names of the 88 persons who were sponsored by Employment Exchange were also in the reserve list of the Tamil Public Service Commission, their appointments cannot be touched. The Tamil Nadu Public Service Commission has not given a clear picture. There is an attempt to cover up true facts.

188. It is unlikely that there were 172 names in the reserve list as has been stated and that after excluding the deletion of 55 names as they were repeated, there were 117 names in the reserve list. The reserve list can consist only 25% of the 503 vacancies. These petitioners [except the petitioners in W.P.Nos.5103 & 20359 of 2021] were however issued with appointment letter. They could have been permanently selected in terms of Notification dated 25.02.2009 if they had scored the mark and 28.02.2009 and would not have been appointed on temporary basis later in terms of G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011. These recruitments were not on temporary basis. However, they have been allowed to continue beyond one year.

189. The Annual Report of the Tamil Nadu Public Service Commission for the year 2009-2010 indicates that about 485 candidates were selected.

190. Thus, 18 names from the regular list ($503 - 485 = 18$) and 126 persons from the reserve list ($503 \times 25 \% = 125.75$) could have been appointed under Rule 10(a)(i) of the General Rules of the Tamil Nadu State and Subordinate Services Rules. About 485 persons were selected.

191. Therefore, only 126 temporary appointments could have been made when Government decided to issue G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011.

192. However, the Government appointed even those persons who did not qualify, were selected pursuant to G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011.

193. Thus, their appointments barring 126 persons from the reserve list were illegal and contrary to Rule 10(a)(i) of the General Rules of the Tamil Nadu State and Subordinate Services Rules.

194. The total number of vacancies called for was 843 vide G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011. As per the Tamil Nadu Public Service Commission, only 798 persons were qualified. Thus, about 45 vacancies could not be filled up ($843 - 798$).

195. The case of the Tamil Nadu Public Service Commission is that though 798 persons qualified, but only 717 joined under Rule 10(a)(i) in Part II - General Rules of the Tamil Nadu State and Subordinate Service Rules. Thus, additional 81 vacancies ($798 - 717$) were not filled up. In other words, out of 843 vacancies, a total of 126 ($45 + 81$) vacancies were not filled up.

196. Out of 717 vacancies, about 81 persons had resigned after joining and thus, only 636 persons were in service pursuant G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011, is 636. As per the petitioners in Table No.4, about 180 out 636 persons were selected pursuant to Notification No.32/2019, dated 18.11.2019.

197. It is case of the Tamil Nadu Public Service Commission that the reserve list that was prepared consisted of 117 persons. Thus, 636 appointments included 117 appointment from the reserve list of Tamil Nadu Public Service Commission. However, copy of the said list is not available.

198. Therefore, the reason of the learned Single Judge in the order dated 12.09.2012 in W.P.(MD) Nos.1666, 2093, 1646 & 374 of 2012 cannot be faulted. The requirement of these persons writing "Special Qualifying Test" also did not arise as the Rule 10(a)(i) of the aforesaid Rules provides only the temporary appointments for a period of one year only from regular / reserve list.

199. From the cumulative reading of the facts, it is evident that about 636 persons were continuing in service though they were not entitled to be appointed on temporary basis in terms of G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011.

200. The fact remains that 798 persons were appointed pursuant to G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 and 636 persons are continuing in service pursuant to the direction of the Hon'ble Supreme Court. It appears that about 180 out of 636 persons have subsequently qualified and are awaiting final appointment order pursuant to Notification No.32/2019 dated 18.11.2019.

201. The temporary appointment does not entitle rest of the 636 persons to claim a lien or right to continue in service after the period of one year. It appears that 180 persons out of 636 persons who wrote exams pursuant to Notification No.32/2019 dated 18.11.2019, alone are entitled to be selected. Approximately, 456 persons (636 - 180) are still working on temporary as on date.

202. Similarly, even those 117 persons who respondents claims to have been appointed from the reserve list also could not continue beyond one year as the appointment under G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 was the temporary appointment against 843 vacancies.

203. Since appointments under Rule 10(a)(i) are temporary in nature for a period of one year, the services of the petitioners in Table Nos.1, 2 & 3 should have come to an end at the expiry of one year. Even if the 117 persons were appointed under Rule 10(a)(i) of the aforesaid Rules, their appointments ought not to have been continued beyond the period of one year. Thus, the services of about 456 (636 - 180) persons who were appointed on temporary basis cannot be continued.

204. There cannot be any right of their being made permanent merely because their selection were made subsequently in terms of G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011.

205. The first opportunity for the above mentioned petitioners both from the reserve list and from rest of them who are not in the reserve list but were appointed against 843 temporary vacancies announced in terms of G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011, was available when recruitment for 917 vacancies was announced in terms of Notification No.05/2013 dated 08.03.2013.

206. All the 636 Veterinary Assistant Surgeons ought to have applied for the permanent post of Veterinary Assistant Surgeons in terms Notification No.05/2013 dated 08.03.2013.

207. Instead, some of these 636 persons filed W.P. (MD) Nos.4883 to 4891, 5844, 5845, 5652 and 5671 of 2013 for a direction for conducting of Special Test for absorbing them permanently. In the said Writ Petitions, an interim order was passed on 28.03.2013. An interim protection was given to them. They reads as under:-

"The Petitioners cannot be terminated in view of the interim order of stay granted by the Division Bench of this Court on 15.10.2012 and even after the regular selection, in view of the stay granted by this Court, the petitioner cannot be terminated, without getting permission of this court for proper modification of the earlier stay order in the writ appeal..."

208. In G.O. (Ms) No.104, Animal Husbandry, Dairying and Fisheries (AH-7) Department, dated 20.05.2014, the Government decided to conduct a special test by the Tamil Nadu Public Service Commission for Veterinary Assistant Surgeons recruited under Rule 10(a)(i) of the aforesaid Rules for permanently absorbing all of them who are working in the Animal Husbandry Department into regular stream and that their appointment was subject to the final outcome of W.A.Nos.876 of 2013 etc. batch. which was categorised as Category - III by the Division Bench in final order dated 22.01.2016.

209. The above G.O. (Ms) No.104, Animal Husbandry, Dairying and Fisheries (AH-7) Department, dated 20.05.2014 was challenged by those who were never appointed earlier praying for conducting general competitive test for 1021 posts of Veterinary Assistant Surgeons. The Division Bench categorised this challenged as Category - IV and held that there cannot be any discrimination and all those candidates will have to write regular exam.

210. The prayer of the petitioners who were selected on temporary basis in terms of G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011, in W.P.Nos.4883 to 4891, 5844, 5845, 5652 and 5671 of 2013 for

conducting Special Test was denied by the Division Bench by its common order dated 22.01.2016 referred to supra.

211. Thus, neither the regular vacancies of 385 nor the proposal for making 636 permanent Veterinary Assistant Surgeons materialised in view of the order of the Division Bench by its common order dated 22.01.2016 referred to supra.

212. In the succeeding Notification No.32/2019, dated 18.11.2019, 1141 vacancies were announced excluding 636 vacancies which has been dealt separately in the above W.P.Nos.5103 & 20359 of 2021.

213. Unless the Rules are amended to regularise the services of the petitioners in Table Nos.1 to 3, their services cannot be regularized as their appointments were not in accordance with the provisions of the Rules.

214. Only Veterinary Assistant Surgeons who participated in the Recruitment Notification No.32/2019, dated 18.11.2019 and who were selected alone are entitled to continue in service. There is no scope for regularising services of rest of 636 or 456 (636 - 180) Veterinary Assistant Surgeons, as case may be, who were absorbed pursuant to G.O.(Ms) No.137, Animal Husbandry, Dairying and Fisheries (AH7) Department, dated 14.11.2011 as their appointment was temporary.

215. Services of those persons who were initially absorbed under Rule 10(a)(i) of the aforesaid Rules and thereafter made permanent are liable to be interfered. All the appointments for a period beyond one year are illegal and contrary to Rule 10(a)(i) of the aforesaid Rules.

216. The appointment of 636 persons was contrary to the decision of the Hon'ble Supreme Court in Secretary, State of Karnataka and others Vs. Umadevi (3) and others, (2001) 4 SCC 1 which decision was recently followed in Union of India and others Vs. IlmoDevi and Another, 2021 SCC OnLine SC 899, wherein, it has been observed that part-time temporary employees are not entitled to seek regularisation as they are not working against any sanctioned post and that there cannot be any permanent continuance of part-time temporary employees.

217. The above decision in Umadevi referred to supra was however distinguished by the Hon'ble Supreme Court in SheoNarain Nagar and others Vs. State of Uttar Pradesh and others, (2018) 13 SCC 432, wherein, it has been observed as follows:-

" 7. When we consider the prevailing scenario, it is painful to note that the decision in Umadevi (3) [State of Karnataka v. Umadevi(3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] has not been properly understood

and rather wrongly applied by various State Governments. We have called for the data in the instant case to ensure as to how many employees were working on contract basis or ad hoc basis or daily-wage basis in different State departments. We can take judicial notice that widely aforesaid practice is being continued. Though this Court has emphasised that incumbents should be appointed on regular basis as per rules but new device of making appointment on contract basis has been adopted, employment is offered on daily-wage basis, etc. in exploitative forms. This situation was not envisaged by Umadevi (3) [State of Karnataka v. Umadevi(3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] . The prime intendment of the decision was that the employment process should be by fair means and not by back door entry and in the available pay scale. That spirit of the Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] has been ignored and conveniently overlooked by various State Governments/authorities. We regretfully make the observation that Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] has not been implemented in its true spirit and has not been followed in its pith and substance. It is being used only as a tool for not regularising the services of incumbents. They are being continued in service without payment of due salary for which they are entitled on the basis of Articles 14, 16 read with (1983) 1 SCC 305 : 1983 SCC (L&S) 145 : AIR 1983 SC 130] , from cradle to grave. We have to strike a balance to really implement the ideology of Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] . Thus, the time has come to stop the situation where Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] can be permitted to be flouted, whereas, this Court has interdicted such employment way back in the year 2006. The employment cannot be on exploitative terms, whereas Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] laid down that there should not be back door entry and every post should be filled by regular employment, but a new device has been

adopted for making appointment on payment of paltry system on contract/ad hoc basis or otherwise. This kind of action is not permissible when we consider the pith and substance of true spirit in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] .”

218. Incidentally, the Hon'ble Supreme Court while dealing with an identical situation in All Manipur Regular Posts Vacancies Substitute Teachers Association Vs. State of Manipur, 1991 Supp (2) SCC 643 has granted relief to the petitioner therein. The fate of the teachers who were working for several years on consolidated salary was considered. The order of the Hon'ble Supreme Court reads as under:-

1. Special leave granted. Intervenor's application filed in Special Leave Petition No. 6121 of 1990 is also allowed.

2. This appeal concerns with the problem of regularisation of substituted/ad hoc teachers in the Education Department of the State of Manipur. They have been in service for the past several years. The State Government however has refused to regularise their services, instead they took steps for direct recruitment. The services of the members of the appellants' association were also sought to be terminated. Thereupon the appellants moved the High Court for relief under Article 226 for staying the direct recruitment and also seeking a direction to regularise their services. The High Court issued a rule nisi in the writ petition but refused to grant any interim relief.

3. This appeal has been preferred against the order of the High Court denying the interim relief to the appellants. During the pendency of this appeal, there were some more writ petitions filed before the High Court. In one of those cases, the High Court has directed the DPC to publish the result of the direct recruitment, and in another case, it appears that the High Court has issued an order staying the direct recruitment.

4. It is said that there are more than one thousand substituted teachers who have been recruited from 1981-82. It appears

that they were allowed to appear before the DPC for direct recruitment and in that process 23 of them were selected by the DPC for direct recruitment, but they could not also be regularly appointed in view of the stay order of the High Court.

5. If the direct recruitment takes place on one hand and substituted teachers are also directed to be regularised subsequently, it would create an enormous problem for the department to accommodate both the categories of persons. Taking all these factors into consideration, this Court made an order dated May 2, 1990 directing the State Government to consider the case of regularisation of the appellants before making direct recruitment. But the government did not take any action. On October 9, 1990 the Court made a further order to implement the order dated May 2, 1990 within two weeks from that date failing which the Secretary, Education Department should be present personally for facing contempt proceedings. Pursuant thereto, the Secretary of Education is personally present before us today.

6. Mr Venugopal, learned senior advocate appeared for the State. He also explained the genesis of the case and the problem of the department for regularising the services of all the substituted teachers. Having heard counsel on both sides, it appears to us that it is necessary to make the following order to avoid further litigation and also to avoid seemingly conflicting interim orders issued by the High Court.

1. All substituted/ad hoc teachers who have put in five years of service or more as on October 1, 1990 shall be regularised without any DPC. This regularisation would be subject to their possessing the required qualifications at the time of their initial appointment.

2. The substituted/ad hoc teachers who have rendered less than five years of service as on October 1, 1990 shall be allowed to appear before the DPC for

selection. The DPC shall be constituted exclusively for them within three months from today. Those who are selected by the DPC shall be regularised immediately thereafter.

3. Twenty-three substituted/ad hoc teachers who have been already selected by the DPC shall be regularly appointed forthwith retaining their present seniority.

4. All the substituted/ad hoc teachers who are in service as on today shall be allowed to continue in service till the DPC declares its result of the selection. The services of those who do not appear before DPC or could not be selected by the DPC could be terminated unless their services are required for a further period.

5. It is said that the DPC earlier convened has selected some persons for direct recruitment. If there are additional vacancies in addition to those which are being occupied by the substituted/ad hoc teachers, they may straightway be appointed against those vacancies and the remaining if any may be appointed after the DPC completes the process of selection of substituted/ad hoc teachers for regularisation depending upon the vacancy position.

6. As to the seniority between the direct recruits and the regularised candidates, we make it clear that the direct recruits other than those mentioned in para (3) above, shall be ranked below all the regularised candidates.

7. This order shall govern all those who are in service as substituted/ad hoc teachers. It shall also govern all pending litigations before the High Court or any other tribunal. The concerned parties shall move the High Court or the tribunal to dispose of the pending litigations accordingly.

219. In Karnataka State Private College Stop-Gap Lecturers Association Vs. State of Karnataka and others, (1992) 2 SCC 29, the Hon'ble Supreme Court observed as under:-

5. Another obnoxious part is the emoluments that have been paid to the temporary teachers. The order provides that the teacher shall be paid a fixed salary which is ten rupees less than the minimum payable to regular employee. This method of payment is again beyond comprehension. An appointment may be temporary or permanent but the nature of work being same and the temporary appointment may be due to exigency of service, non-availability of permanent vacancy or as stopgap arrangement till the regular selection is completed, yet there can be no justification for paying a teacher, so appointed, a fixed salary by adopting a different method of payment than a regular teacher. Fixation of such emoluments is arbitrary and violative of Article 14 of the Constitution. The evil inherent in it is that apart from the teachers being at the beck and call of the management are in danger of being exploited as has been done by the management committees of State of Karnataka who utilised the services of these teachers for 8 to 10 years by paying a meagre salary when probably during this period if they would have been paid according to the salary payable to a regular teacher they would have been getting much more. Payment of nearly eight months' salary, by resorting to clause 5, and, that too fixed amount, for the same job which is performed by regular teachers is unfair and unjust. A temporary or ad hoc employee may not have a claim to become permanent without facing selection or being absorbed in accordance with rules but no discrimination can be made for same job on basis of method of recruitment. Such injustice is abhorrent to the constitutional scheme.

220. The Hon'ble Supreme Court in the above case further observed as follows:-

6. While deprecating direction by the government to break service for a day or two and paying fixed salary to temporary employees we must condemn the practice of management of not making regular selection

utmost within six months of occurrence of vacancy. Nor the helplessness of government can be appreciated as expressed in the counter-affidavit that despite orders the management continued with it. If the government could not take effective measure either by superseding the management or stopping grants-in-aid then either it was working under pressure from management of the private aided institutions or it was itself interested in continuing such unfortunate state of affairs. In either case the equities have been created because of doings of State itself, therefore, it should resolve it. One such method was adopted by the High Court in individual petitions filed by the teachers by directing the Director of Education to hold selection. In pursuance of it some of the teachers have been regularised. But substantial number still remain due to State's going back on its agreement before the Court by creating obstacles in implementation of the order. Many of them who have faced selection and have secured higher marks and are in zone of selection are being denied the benefit because it is claimed that such regularisation would be contrary to reservation policy of the State. The policy is under challenge in another proceedings in the Court. Without entering into validity of the policy which according to petitioner results in cent per cent reservation we are of opinion that such practice should be put an end to, therefore, following directions are necessary to be issued:

1. Provision in clause 5 of one day's break in service is struck down as ultra vires.
2. Order for payment of fixed salary to temporary teachers is declared invalid. But it shall operate prospectively. A teacher appointed temporarily shall be paid the salary that is admissible to any teacher appointed regularly.
3. Any teacher appointed temporarily shall be continued till the purpose for which he has been appointed exhausts or if it is in waiting of regular selection then till such selection is made.

4. Managements shall take steps, whenever necessary, to fill up permanent vacancies in accordance with rules. Delay in filling up the vacancies shall not entitle the management or Director to terminate the services of temporary teachers except for adequate reasons. But it shall entitle the government to take such steps including supersession of management or stopping grants-in-aid if permitted under law to compel the institutions to comply with the rules.

7. So far as these petitioners and teachers similarly situated are concerned, it could not be disputed that many of those teachers who appeared for selection in pursuance of the High Court order secured sufficiently high marks but they could not be regularised because the vacancies are said to be reserved. But what has been lost sight of is that petitioners are seeking regularisation on posts on which they have been working and not fresh appointments, therefore, they could not be denied benefit of the High Court's order specially when no such difficulty was pointed out and it was on agreement by the respondents that the order was passed. No material has been brought on record to show that any action was taken prior to decision by the High Court against any institution for not following the reservation policy. To deny therefore the benefit of selection held on agreement by the respondents is being unjust to such selectees. Further the State of Karnataka appears to have been regularising services of ad hoc teachers. Till now it has regularised services of contract lecturers, local candidates, University lecturers, Engineering colleges' lecturers etc. It may not furnish, any basis for petitioners to claim that the State may be directed to issue similar order regularising services of teachers of privately managed colleges. All the same such policy decisions of government in favour of one or the other set of employees of sister department are bound to raise hopes and expectations in employees of other departments. That is why it is incumbent on governments to be more circumspect in taking such decisions. The

petitioners may not be able to build up any challenge on discrimination as employees of government colleges and private colleges may not belong to the same class yet their claim cannot be negated on the respondents' stand in the counter-affidavit that the regularisation of temporary teachers who have not faced selection shall impair educational standard without explaining the effect of regularisation of temporary teachers of University and even technical colleges. Such being the unfortunate state of affairs this Court is left with no option but to issue following directions to respondents for not honouring its commitments before the High Court and acting contrary to the spirit of the order, and also due to failure of government in remaining vigilant against private management of the college by issuing timely directions and taking effective steps for enforcing the rules:

1. Services of such temporary teachers who have worked as such for three years, including the break till today shall not be terminated. They shall be absorbed as and when regular vacancies arise.
2. If regular selections have been made the government shall create additional posts to accommodate such selected candidates.
3. The teachers who have undergone the process of selection under the directions of the High Court and have not been appointed because of the reservation policy of the government be regularly appointed by creating additional posts.
4. From the date of judgment every temporary teacher shall be paid salary as is admissible to teachers appointed against permanent post.
5. Such teachers shall be continued in service even during vacations.

221. Though above decisions may come to the rescue of these persons in Table Nos.1, 2 & 3 who were appointed contrary to Rules, the issue is now subjudice before the

Hon'ble Supreme Court. The 117 persons who were form part of 636 persons and were appointed, from the reserve list also could not have continued in service beyond one year unless their services are regularised. The fate of 636 persons other than those who are entitled to be permanently selected pursuant to the Notification No.32/2019, dated 18.11.2019 will have to however wait for the decision of the Hon'ble Supreme Court.

222. Since the Hon'ble Supreme Court seized of the matter, it is for these petitioners and the respondent Tamil Nadu Animal Husbandry, Dairying and Fisheries Department to have this issue resolved in accordance with law to ensure that there is no doubt at a later point of time. The continuance of the petitioners in Table Nos.1, 2 & 3 in service, is subject to the final outcome of the S.L.P. before the Hon'ble Supreme Court other than those who have been selected pursuant to Notification No.32/2019, dated 18.11.2019.

223. In the result, all these Writ Petitions are dismissed with the above observations. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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TO:

- 1.THE STATE OF TAMIL NADU,
ANIMAL HUSBANDRY AND VETERINARY SERVICES,
SECRETARIAT, CHENNAI - 09.
- 2.THE DIRECTOR,
DIRECTORATE OF ANIMAL HUSBANDRY AND VETERINARY SERVICES,
NO. 571, ANNA SALAI,
NANDANAM, CHENNAI - 600 035.
- 3.THE SECRETARY,
TAMIL NADU PUBLIC SERVICE COMMISSION,
V.O.C. NAGAR, PARK TOWN,
CHENNAI - 600 003.
- 4.THE SECRETARY TO GOVERNMENT,
ANIMAL HUSBANDARY,
DAIRYING AND FISHERIES DEPARTMENT,
SECRETARIAT, CHENNAI - 600 009.

5.THE DIRECTOR OF ANIMAL HUSBANDRY AND VERINARY SERVICES,
O/O. THE DIRECTOR OF ANIMAL HUSBANDRY
AND VETERINARY SERVICES,
CENTRAL OFFICE BUILDINGS, BLOCK -II,
CHENNAI -6.

6.THE CHAIRMAN,
TAMIL NADU PUBLIC SERVICE COMMISSION,
SERVICE COMMISSION ROAD,
PARK TOWN, CHENNAI 600003.

7.THE SECRETARY TO GOVERNMENT,
GOVT., OF TAMIL NADU,
ANIMAL HUSBANDRY AND FISHERIES DEPARTMENT,
SECRETARIAT, ST. GEORGE FORT,
CHENNAI - 600009.

+1cc to Dr.R.Maheswari, Advocate S.R.No. 22202

+3ccs to Mr.M.Santhanaraman, Advocate S.R.Nos. 22426 to 22428

+1cc to Mr.S.Doraisamy, Advocate S.R.No. 22655

+1cc to Mr.V.Vaithiyalingam, Advocate SR. No. 22930

+1cc to Government Pleader, SR. Nos.22711 to 22724, 22992 to
22998, 22759 to 22765, 22783 to 22789, 22744 to 22756 & 22758,
22999 to 23016

W.P.No.9891 of 2020

NRL (CO)
PR (22/04/2022)