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W.P.No.18852 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.18852 of 2022

R.Ganeshan

.... Petitioner

-Vs-

1.The Deputy Director
District Livestock Farm
The Nilgiris – 643 006.

2.Regional Joint Director of Animal Husbandry
Veterinary Hospital Compound
Goodshed Road, Udhagamandalam
The Nilgiris – 643 001.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st respondent to consider the representation of the petitioner dated 24.06.2022 sent to the 1st respondent and direct the 1st respondent to disburse the pending salaries of the petitioner from the month of September 2021 till the present and correct the incorrect entries in the service register of the petitioner to reflect the petitioner's post as a Driver and include the name of the petitioner in the attendance register from the day of removal.

For Petitioner : Mr.Naveen Kumar Murthi

For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader



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ORDER

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The prayer sought for herein is for a Writ of Mandamus directing the 1st respondent to consider the representation of the petitioner dated 24.06.2022 sent to the 1st respondent and direct the 1st respondent to disburse the pending salaries of the petitioner from the month of September 2021 till the present and correct the incorrect entries in the service register of the petitioner to reflect the petitioner's post as a Driver and include the name of the petitioner in the attendance register from the day of removal.

2. The petitioner was appointed as driver by the appointment order passed by the second respondent dated 08.07.2013. From then onwards he joined in the service and had been working in the first respondent office viz., Deputy Director, District Livestock Farm, Nilgiris. While so, the petitioner had been directed to drive the vehicle ie., Tractor being utilized by the first respondent office on a permanent basis. Thereby, the petitioner had been appointed as driver to drive other vehicles like Car, Jeep etc., owned or pressed into service by the respondent Department especially the first respondent office or any other office under the respondent Department. Since he has been specifically directed to drive the Tractor, for which according to the petitioner, he has not been trained properly and is not having proper licence to be issued in this regard by the Motor Vehicles Department, he raised an objection for posting him or directing him to take in charge of the Tractor at the first respondent



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office. With the result, the petitioner was forced to give a representation to the respondents on 24.06.2022 wherein he has requested the first respondent to allot the work of driving vehicle other than Tractor to the petitioner and also to pay salary which has not been paid for some time because of the issue that has arisen.

3. The said representation submitted by the petitioner dated 24.06.2022 since has not been considered and the said status quo of allotting the work to the petitioner to drive the Tractor without paying the salary because he has not taken in charge of the Tractor for the reason stated above continued, the petitioner had approached this Court by filing the present writ petition with the aforesaid prayer.

4. In fact this matter has been heard more than two times by this Court. Learned counsel for both sides have made their submissions. At one point of time, it was the stand of the learned Additional Government Pleader appearing for the respondents that there was no other vehicle other than Tractor available in the first respondent office for the purpose of pressing into service. Hence, the plea raised by the petitioner to put him for driving the vehicle other than Tractor is not feasible for compliance.

5. Only at that juncture, when this Court specifically asked the learned



Additional Government Pleader as to whether any other office of the same department in the State having such post of Driver to drive the vehicles like Jeep, Car or Lorry etc., other than Tractor alone, in response to the said query raised by this Court, the learned Additional Government Pleader, having receipt of the written instructions dated 11.08.2022 from the Commissioner of Animal Husbandry Department, Nandanam, Chennai 600 035 has filed details, where there are 22 such places which are vacant without having the post being filled up.

6. The complete list consisting of this vacancy position has been filed before this Court and on perusal of the same, this Court feels that the petitioner can be accommodated in any one of the vacancy, where he can be pressed into service to drive vehicles like Jeep, Car etc., but not Tractor.

7. In this context, the petitioner's counsel even though insisted that there are still vacancies in the Nilgiris District itself where the petitioner since has been settled, he may be pressed into service to drive the vehicle other than Tractor either in the first respondent office or the second respondent office, this Court feels that when the respondents specifically have taken a stand that there is no such vacancy available in the Nilgiris District, better the petitioner can be accommodated in any nearby District, for which the petitioner's counsel, as an alternative, suggests that Tiruppur where there are two vacancies shown in the list of vacancies and in any one of such vacancy especially in the Animal Disease Intensive Unit (ADIU) Office at Tiruppur, the



petitioner can be accommodated for the time being until vacancy arises in any of the offices at Nilgiris ie., the respondents' office.

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8. I have considered the said submissions made by the learned counsel and taken note of the developments including the particulars filed by the respondents, where out of 22 vacancies available, in the vacancy available at ADIU Office at Tiruppur where one Jeep Driver post is available, which has been kept vacant, in that vacancy the petitioner can be accommodated as of now so that the issue raised in this writ petition can be given a quietus for the time being, of course with a liberty to pursue his plea to get back into the service at Nilgiris subject to the availability of vacancy in future.

9. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

- That there shall be a direction to the Commissioner, Animal Husbandry Department, Nandanam, Chennai-35 to take necessary steps to post the petitioner by way of transfer at ADIU Office at Tiruppur as Vehicle Driver (Other than Tractor) and such transfer order shall be issued either by the aforesaid Officer or on his instructions, by any other subordinate officer, within a period of two weeks from the date of receipt of a copy of this order.
- Also, the salary due payable to the petitioner from March



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2022 shall also be calculated and paid to him within the said period by the concerned officer ie., the second respondent herein.

- It is made clear that the petitioner, on receipt of such order, shall forthwith join in the transferred place and it is open to him to pursue his plea to get posting by transfer to his native place at Niligiris provided if any vacancy arises in the offices located in the District in future.
- Since the said respondent viz., Commissioner, Animal Husbandry Department, Nandanam, Chennai-600 034 is not a party to this writ petition, a copy of this order shall be communicated to him by the Registry for the necessary action as indicated above.

10. With the above directions, this writ petition is disposed of. No costs.

29.08.2022

Index : Yes/No
Internet : Yes/No
KST

To



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R. SURESH KUMAR, J.

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