



W.P.No.1369 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.1369 of 2021
and W.M.P.No.1543 of 2022

A.Yuvarani

... Petitioner

Vs.

1.The Secretary,
Tamil Nadu Public Service Commission,
Fraser Bridge Road, Chennai – 3.

2.The Controller of Examinations,
Tamil Nadu Public Service Commission,
Fraser Bridge Road, Chennai – 3.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for records of the respondents 1 & 2 in connection with the impugned provisional selection list of the candidates admitted for the oral test for the post of Veterinary Assistant Surgeon in the Tamil Nadu Animal Husbandry Service for the year 2019-2020 dated 18.12.2020 and quash the same in so far as the petitioner's number (010005262) is concerned and direct the respondents to allow the



W.P.No.1369 of 2021

petitioner to participate for oral test to be held from 04.01.2021 to 29.01.2021 and select and appoint the petitioner as Veterinary Asst Surgeon and grant her all consequential service and monetary benefits and grant such other further relief.

For Petitioner : Mr.K.Venkataramani,
Senior Counsel

For Respondents : M/s.G.Hema,
Standing Counsel

ORDER

This writ petition has been filed by the petitioner to call for records of the respondents 1 & 2 in connection with the impugned provisional selection list of the candidates admitted for the oral test for the post of Veterinary Assistant Surgeon in the Tamil Nadu Animal Husbandry Service for the year 2019-2020 dated 18.12.2020 and quash the same in so far as the petitioner's number (010005262) is concerned and direct the respondents to allow the petitioner to participate for oral test to be held from 04.01.2021 to 29.01.2021 and select and appoint the petitioner as Veterinary Asst Surgeon and grant her all consequential service and monetary benefits and grant such other further relief.



WEB COPY

2. Learned senior counsel for the petitioner submitted that the petitioner has completed her Bachelor of Veterinary Science in the year December 2012. This being so, the Tamil Nadu Public Service Commission has issued an advertisement No.562 and Notification No.32/2019 dated 18.11.2019, calling for applications to the post of Veterinary Asst Surgeon in Tamil Nadu Animal Husbandry Service. The petitioner has earlier applied for the post included in Group I (CCST) (Notification No.1/2019) and the same has been treated as application for the post of Veterinary Asst Surgeon. Subsequently, the petitioner was admitted for the written examination and she has also come out successful by securing over and above the necessary cut off marks.

3. Learned senior counsel for the petitioner further submitted that the petitioner is provisionally selected for certificate verification and directed to upload the copy of all the relevant certificates in the official website through online. In this aspect, the petitioner has sent all the documents except SSLC Certificate and sent a xerox copy of the same along with a letter stating that the original certificate was misplaced on 14.07.2015 and she has applied for copy of the documents at the Directorate of School Education. Subsequently,



W.P.No.1369 of 2021

the Tamil Nadu Public Service Commission has issued a list of candidates provisionally selected for oral test, however, the petitioner's application was rejected on the ground that she did not enclosed the SSLC Mark certificate, wherein the date of birth has been mentioned as 01.11.1989. But, on the other hand instead of sending xerox copy of the original, she has sent the xerox copy duly attested along with the certificate for having preferred a complaint against the loss of certificate and also untraceable certificate from the Police Department as early as 2015, besides her application for issuance of the duplicate certificate to the Education Department.

4. Learned senior counsel for the petitioner contended that after the rejection of her application only the petitioner has come to know that her date of birth has wrongly typed as 04.10.1989 instead of 01.11.1989, while applying for the said post. Moreover, the original SSLC certificate mentioning the date of birth has been lost as early as 2015. The petitioner could not verify the date of birth immediately and the typographical error happened on account of sending the application form on-line with the help of the internet centre. Without considering the these aspects, the respondents



rejected the application of the petitioner. Hence, the petitioner has come forward with the present writ petition prayed to set aside the rejection order and to direct the respondents to appoint her in the post of Veterinary Asst Surgeon with all benefits.

5. Learned senior counsel for the petitioner drew the attention of this Court to the order passed by this Court in W.M.P.No.1543 of 2021 dated 25.01.2021. For better appreciation, the relevant paragraph is extracted hereunder:

“6. Accordingly, the petitioner is permitted to participate in the oral test scheduled to be held on 29.01.2021. The result shall be kept in a sealed cover. However, the respondents shall proceed to continue with the process of recruitment and the pendency of the writ petition is not a bar to stall the proceedings. At any cost, the direct recruitment procedure and appointment shall not be stopped by the respondents. In case any appointment is made, the same will be subject to the result of the writ petition and the candidates who are selected and appointed shall be informed about this writ petition, as at a later date those persons cannot take a stand that they are not aware about this writ petition. They can get themselves impleaded in the writ petition, if the same is not already disposed of.”

6. Learned standing counsel appearing for the respondents has filed a counter affidavit dated 28.08.2023 and submitted that the candidate



W.P.No.1369 of 2021

Tmt.A.Yuvarani (Reg.No.010005262) has been admitted to oral test based on the Court orders dated 25.01.2021 in W.P.No.1369 of 2021 filed by her and was allowed to attend counselling and provisionally allotted, subject to outcome of the writ petition. The interim orders of the Hon'ble High Court has been complied with. However, there is no specific ordres to keep one post vacant for her. Hence, there is no vacancy for this petitioner candidate and the selection for this recruitment has also been finalised.

7. Learned standing counsel appearing for the respondents further submitted that the Under Secretary of the Tamil Nadu Public Service Commission has signed a communication dated 06.02.2021, informing that the petitioner Tmt.Yuvarani.A (Reg.No.010005262/Rank No.1381) has been provisionally selected for appointment by direct recruitment to the post of Veterinary Assistant Surgeon in Tamil Nadu Animal Husbandry Servie for the years 2019-2020 and that her application is admitted provisionally and that his/her allotment is withheld subject to outcome of Court case filed by the candidate before Hon'ble High Court. She has been allotted to the said post based on her rank, vacancy position (rule of reservation of appointments). The said allotment is purely temporary and tentative and



W.P.No.1369 of 2021

subject to outcome of Court case filed by the candidate before Hon'ble High Court and satisfaction of all the conditions prescribed for the said recruitment.

8. Learned standing counsel appearing for the respondents further submitted that there is no vacancy for the petitioner to be accommodate for the appointment to the post of Veterinary Asst Surgeon as per the orders of this Court, the marks were kept in the sealed cover and the same was opened by this Court on 10.07.2023 and the said list was released on 27.07.2023.

9. Heard the learned counsel on either side and perused the materials available on record.

10. The facts of the case is not in dispute. The petitioner has applied for the post of Veterinary Assistant Surgeon through an Internet Centre. It is represented that the petitiouer belongs to Most Backward Class community. She was admitted for the written examination and secured necessary cut off marks in the written examination. Earlier, she applied for the post included



W.P.No.1369 of 2021

in Group-I on 31.01.2019 and the same has been treated as application for the post of Veterinary Assistant Surgeon under on time registration. In that application, the petitioner's date of birth has been wrongly entered by the Computer Centre as 04.10.1989 instead of 01.11.1989. Hence, her application for the next stage of selection has been rejected by Tamil Nadu Public Service Commission. Hence, this writ petition.

11. In view of the communication dated 06.02.2021 issued by the Under Secretary, Tamil Nadu Public Service Commission (stated supra), now the Commission cannot say that there is no vacancy available in regard to accommodate the petitioner. Having issued the communication as well as on 06.02.2021, the Commission should have kept one post vacant, so as to accommodate the petitioner in the aforesaid post, however, the Commission has failed to do so. Moreover, the cut of mark declared for MBC Women category is 290 and the petitioner has secured 297.75 marks, more than the cut of mark. Hence, the petitioner is eligible for the post of Veterinary Asst Surgeon.



W.P.No.1369 of 2021

12. In view of the above factual matrix of the case, this Court is of the considered view that the petitioner is eligible for appointment to the post of Veterinary Asst Surgeon.

13. The respondents are directed to appoint the petitioner in the post of Veterinary Asst Surgeon, within a period of six weeks from the date of receipt of a copy of this order.

14. This writ petition stands allowed with the aforesaid direction. No costs. Consequently, connected miscellaneous petition is closed.

30.08.2023

(vm)

Index : Yes/No
Speaking Order : Yes/No

To:

Page No.9 of 11



W.P.No.1369 of 2021

1.The Secretary,
Tamil Nadu Public Service Commission,
Fraser Bridge Road,
Chennai – 3.

2.The Controller of Examinations,
Tamil Nadu Public Service Commission,
Fraser Bridge Road,
Chennai – 3.

J.SATHYA NARAYANA PRASAD,J.

vm



WEB COPY



W.P.No.1369 of 2021

W.P.No.1369 of 2021

30.08.2023