



W.P.No.3927 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.3927 of 2022

R.Geetha

... Petitioner

Vs.

1.The Government of Tamil Nadu,
By its Secretary,
Department of Animal Husbandry and Veterinary Services,
Department Secretarial, Chennai.

2.The Director,
Department of Animal Husbandry and Veterinary Services,
DMS Campus, Chennai – 6.

3.The Secretary,
Tamil Nadu Public Service Commission,
Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 2nd respondent to include the service of the petitioner with salary from the year 2008- 2009 on which the other Veterinary Assistant Surgeons were selected along with the petitioner, by considering the representation made by the petitioner to the 2nd respondent on 28.09.2021.



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For Petitioner : Mr.S.Muthukrishnan
For R1 and R2 : Mr.P.Baladhandayutham
Special Government Pleader
For R3 : Mr.R.Bharanidharan

ORDER

This writ petition has been filed to direct the 2nd respondent to include the service of the petitioner with salary from the year 2008- 2009 on which the other Veterinary Assistant Surgeons were selected along with the petitioner, by considering the representation made by the petitioner to the 2nd respondent on 28.09.2021.

2.It is the case of the petitioner that she applied for the post of Veterinary Assistant Surgeon and she was selected for the said post and her name was in Sl.No.35 in the Selection List of 58 Veterinary Assistant Surgeons. However, the 3rd respondent/TNPSC withheld her selection without giving any reasons, whereas the other 57 persons selected by the 3rd respondent were given appointment orders in the year 2008. However, the petitioner was given appointment order only on 13.06.2012 and she joined duty and is still in service. It is the grievance of the petitioner that



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she is entitled to have service benefits from the date on which the other Veterinary Assistant Surgeons who were selected along with the petitioner were given appointment orders. In this regard, the petitioner has given representation to the respondents, dated 28.09.2021. Since the same was not considered, the present writ petition has been filed.

3.A counter affidavit has been filed by the 3rd respondent/TNPSC stating that a notification was issued in the year 2009 for filling up 59 vacancies in the post of Veterinary Assistant Surgeon for the year 2007-2008. The petitioner was selected under ST(W) Category for the above said post for the year 2007-2008, and her selection was withheld due to pending receipt of the State Level Scrutiny Committee's verification report. Later on, the particulars of the selected candidates except the petitioner (pending verification) were forwarded to the Government on 06.01.2010 for approval and the selection was finalized. However, in the meantime, the State Level Scrutiny Committee was requested to verify the genuineness of the Community claim made by the petitioner vide Commission's letter dated 29.04.2008. After sending reminders, the State Level Scrutiny Committee passed order dated 12.10.2011, confirming that the petitioner belongs to Hindu 'Malayali'



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Scheduled Tribes and her Community Certificate was a genuine one. It is further stated that the State Level Scrutiny Committee (SLSC) was constituted only after the issuance of the Government Order in G.O.(2D) No.108, Adi Dravidar and Tribal Welfare (CV-I) Department, dated 12.09.2007. Immediately after the receipt of the report from the SLSC, the petitioner was given appointment indicating that her name and other particulars must be noted in the appropriate place at Sl.No.35 [2nd rotation-50th turn ST(W)] in the list of candidates selected for the said post.

4.It is the contention of the learned counsel for the petitioner that, since her appointment was delayed without any fault on the side of the petitioner, she is entitled to all service benefits including salary.

5.On the other hand, learned counsel for the respondents submitted that the petitioner was given posting immediately after the verification of the Community Certificate of the petitioner by the SLSC and even her seniority has been restored at the time of appointment. It is their further contention that, merely because there was some delay in verification, the petitioner is not entitled to salary.



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

7.The petitioner was selected to the post of Veterinary Assistant Surgeon under ST(W) Category. It is relevant to note that, pursuant to the orders of the Hon'ble Apex Court in Civil Appeal No.5854 of 1994, dated 02.09.1994, the Government have passed an order in G.O.(2D) No.108, Adi Dravidar and Tribal Welfare (CV-I) Department, dated 12.09.2007, constituting a State Level Scrutiny Committee at State Level and District Level Vigilance Committees at District Level to verify the genuineness of the Community Certificates issued to Scheduled Castes and Scheduled Tribes. Accordingly, the SLSC has conducted the verification of the Community Certificate of the petitioner, who was selected under ST(W) Category, and of course, there was some delay in issuing final report. However, it is the relevant to note that the 3rd respondent/TNPSC has sent the communication to the Committee in the year 2008 itself and reminders in the year 2010, to expedite the process. Whereas, the report has been issued by the SLSC only on 12.10.2011 after examination of the Community Certificate of the petitioner. Immediately thereafter, the



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petitioner was given appointment on 13.06.2012, restoring her seniority at

Sl.No.35 as per the original seniority at the time of selection.

8.In such view of the matter, when the petitioner has been appointed immediately after the receipt of the report from the SLSC and her seniority has also been restored as it was at the time of selection and the petitioner was appointed only in the year 2012, she cannot claim salary for the period before which she was appointed. Therefore, the prayer of the petitioner for salary benefits is dismissed as not maintainable.

9.Accordingly, this writ petition is dismissed. No costs.

05.09.2023

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order



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To

WEB COM

- 1.The Secretary,
Government of Tamil Nadu,
Department of Animal Husbandary and Veterinary Services,
Department Secretarial, Chennai.
- 2.The Director,
Department of Animal Husbandary and Veterinary Services,
DMS Campus, Chennai – 6.
- 3.The Secretary,
Tamil Nadu Public Service Commission,
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N. SATHISH KUMAR, J.
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