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W.P.No.9747 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P.Nos.9747, 9750, 9947, 11363, 11370, 11371, 11958, 11437,
11439, 11440, 11441 & 12242 of 2021

and

W.M.P.Nos.15369, 15373, 15638, 15635, 15636, 15639, 16706,
16447, 16708, 17299, 17425, 17424 of 2021 & 941 of 2022

W.P. No.9747 of 2021

Dr.M.Ramu

S/o.Mayalagu

Plot No.143/B, 5th Main Road

Thiruvalluvar Nagar

Kodungaiyur Post

Chennai 600 118

... Petitioner

/Vs/

1.The Secretary to the Government

Animal Husbandry dairying and Fisheries Department

Secretariat, Chennai 600 009

2.Director of Animal Husbandry and Veterinary Service

Veterinary Hospital Compound

Saidapet, Chennai 600 035

3.Principal Secretary to the Government

Personnel and Administrative Reforms Department

Secretariat, Chennai 600 009

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the Respondent authority to regularize the service period from 14.09.1998 to 20.08.2002 as a Veterinary Assistant Surgeon as given in the G.O.(2D) No.27 Animal Husbandry and Fisheries (AH7) dated 05.07.2002, by considering the representations dated 20.10.1999, 12.05.2016, 05.11.2019, 05.02.2020 within a time to be fixed by this Court.

For Petitioners : Mr.A.V.Raja

For Respondents : Mr.R.Ramanlal
Additional Advocate General
Assisted by
Mr.P.Sanjai Gandhi
Government Advocate

COMMON ORDER

W.P. No.9747 of 2021 has been filed for issuance of Writ of Mandamus directing the Respondent authority to regularize the period of service between 14.09.1998 to 20.08.2002 as a Veterinary Assistant Surgeon as per G.O.(2D) No.27 Animal Husbandry and Fisheries (AH7) dated 05.07.2002, by considering the representations dated 20.10.1999, 12.05.2016, 05.11.2019, 05.02.2020 within a time to be fixed by this Court.



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2.Heard Mr.A.V.Raja, learned counsel for the Petitioner and Mr.R.Ramanlal, learned Additional Advocate General for the Respondents, Assisted by Mr.P.Sanjai Gandhi, learned Government Advocate.

3.Mr.A.V.Raja, learned counsel for the Petitioner submitted that the Petitioners were appointed as Livestock Assistant/Inspector Grade II, in Tamil Nadu Animal Husbandry Subordinate Service by virtue of respective proceedings of the Animal Husbandry Department. All the Petitioners were permitted to do B.V.Sc., Course on condition and they are entitled to get full pay and allowance as per G.O.Ms.No.70, Animal Husbandry (AH1) dated 17.04.1998 and G.O.Ms.No.307 Agriculture (AH6) Department dated 11.03.1987. The Petitioners completed the course and registered as Veterinary Doctors. Subsequently, a notification by virtue of G.O.(2D) No.27 Animal Husbandry and Fisheries (AH7) Department dated 05.07.2002 issued for amending G.O.Ms.No.1930 Agriculture (AH7) Department, dated 08.10.1987. This G.O.Ms.No.1930 Agriculture (AH7) Department, dated 08.10.1987 is for the revised special rules in respect of Tamil Nadu Animal Husbandry services. The above rules, prescribe the educational qualification of holding B.V.Sc., degree for the appointment of Veterinary Assistant Surgeon, Junior Research Statistician, which fall under category 1, through direct recruitment. The said



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rule has been amended subsequently by issuance of G.O.(2D) No.27 Animal Husbandry and Fisheries (AH7) Department dated 05.07.2002, through which the rule has been amended to the effect from “Direct Recruitment” to “direct recruitment or by recruitment by transfer”. The eligibility criteria has been fixed as holding B.V.Sc., degree along with 10 years of service in the cadre of Livestock Inspector Grade I or Grade II or both. By virtue of the amendment, rule 7 has also been amended as under:

“Provided that every person appointed to the post of Veterinary Assistant Surgeon, Junior Research Statistician by recruitment by transfer shall, from the date on which he joins duty, be on probation on for a total period of one year on duty within a continuous period of two years.”

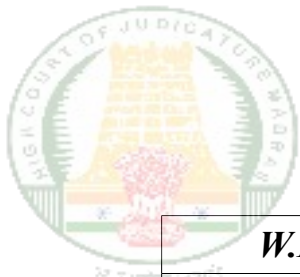
The amendment has been given effect from 01.01.1987, on which date the revised special rules have been issued through G.O.Ms.No.1930 Agriculture (AH7) Department, dated 08.10.1987. The above rule has also come into effect from 01.01.1987. All the Petitioners have been appointed as Veterinary Assistant through recruitment by transfer, by virtue of the proceedings of the Director of Veterinary Services. The Petitioners have completed B.V.Sc., Degree and then joined the office.



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W.P.No.	Name of the Petitioner	Date of relieving for undergoing B.V.Sc., degree	Date of joining after completion of B.V.Sc., degree
W.P.No.9747/2021	Dr.M.Ramu	06.10.1992	17.08.1998
W.P.No.9750/2021	Dr.R.Thillai Govindan	06.11.1986	06.12.1992
W.P.No.9947/2021	Dr.N.Ramachandran	31.10.1987	11.03.1993
W.P.No.11363/2021	Dr.R.Selvam	31.10.1987	12.03.1993
W.P.No.11370/2021	Dr.A.S.Palanisamy	28.08.1989	06.02.1995
W.P.No.11371/2021	Dr.P.Subramanian	01.09.1994	01.06.2000
W.P.No.11437/2021	Dr.G.Jayaraman	31.10.1987	11.03.1993
W.P.No.11439/2021	Dr.D.Vanchinathan	30.10.1987	11.03.1993
W.P.No.11440/2021	Dr.P.Santhanam	31.10.1987	10.03.1993
W.P.No.11441/2021	Dr.T.K.Nagarajan	26.12.1990	24.08.1996
W.P.No.11958/2021	Dr.N.Ramapathy	02.10.1991	17.08.1998
W.P.No.12242/2021	Dr.R.Venkatesan	13.09.1989	04.05.1995

4.Mr.A.V.Raja, learned counsel for the Petitioner further submitted that the request of the Petitioners is that their services in the cadre of Assistant Veterinary Surgeon ought to have been regularised from the date when they acquired B.V.Sc., Degree by taking into consideration of their completion of 10 years of services in the cadre of Livestock Inspector. In this regard, the Petitioners have given representation on the dates as under:



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W.P.No.	Name of the Petitioner	Representation dated
W.P.No.9747/2021	Dr.M.Ramu	20.10.1999, 12.05.2016, 05.11.2019 & 05.02.2020
W.P.No.9750/2021	Dr.R.Thillai Govindan	05.11.2019
W.P.No.9947/2021	Dr.N.Ramachandran	05.11.2019
W.P.No.11363/2021	Dr.R.Selvam	05.11.2019
W.P.No.11370/2021	Dr.A.S.Palanisamy	06.04.1995, 09.06.1996, 24.03.2016, 17.04.2017, 15.12.2017 & 05.02.2020
W.P.No.11371/2021	Dr.P.Subramanian	13.12.2017, 05.11.2019, 05.02.2020
W.P.No.11437/2021	Dr.G.Jayaraman	05.11.2019
W.P.No.11439/2021	Dr.D.Vanchinathan	05.11.2019
W.P.No.11440/2021	Dr.P.Santhanam	05.11.2019
W.P.No.11441/2021	Dr.T.K.Nagarajan	05.11.2019
W.P.No.11958/2021	Dr.N.Ramapathy	05.11.2019
W.P.No.12242/2021	Dr.R.Venkatesan	01.06.1995, 06.02.1996 & 05.11.2019

But the above representations were not considered. Hence, the Petitioners filed these Writ of Mandamus seeking direction to the Respondent authority to consider their representation and issue them an order of regularisation of their services in the cadre of Assistant Veterinary Surgeon from the date of their qualification (i.e.,) registered before the Council.

5.Mr.R.Ramanlal, learned Additional Advocate General for the Respondents submitted that the Petitioners who have been appointed as



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Livestock Inspector have given an opportunity to improve their career prospects by allowing them to do B.V.Sc., course. The Government was benevolent enough to treat their study time as duty with pay. As per the earlier rule for appointment of Veterinary Assistant Surgeon, the appointment can be done only through direct recruitment. The rule has been subsequently amended in order to accommodate the Petitioners who were in the cadre of Livestock Inspector/Veterinary Assistant Surgeon in the ratio of 10:1 between the direct recruits and the Livestock Inspectors who subsequently qualified by acquiring the B.V.Sc., degree. The rules of recruitment also amended to direct recruitment or recruitment by transfer. These Petitioners cannot seek an automatic right of appointment in the cadre of Assistant Veterinary Surgeon, immediately after the completion of B.V.Sc., and they can be appointed only when their turn comes for promotion in accordance with 10:1 ratio.

6.Mr.R.Ramanlal, learned Additional Advocate General for the Respondents further submitted that all these Petitioners who have got appointed as Assistant Veterinary Surgeon, have retired long back and they have come out with these Petitions by claiming regularisation of their service in the cadre of Assistant Veterinary Surgeon from the date of their completion of the B.V.Sc., course and the same cannot be permitted.



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7.As rightly pointed out by the learned Additional Advocate General and admitted by the Petitioners themselves, the Government has allowed the Petitioners to do B.V.Sc., course with full pay and allowances. The idea is to appoint them to the post of Veterinary Assistant Surgeon at a future point of time. Since the appointment rules in respect of Assistant Veterinary Surgeon, as per the revised rules issued in G.O.Ms.No.1930 Agriculture (AH7) Department, dated 08.10.1987, contemplates only the direct recruitment by TNPSC, the rules have been amended in order to enable the Petitioners and like others to have lateral entry to the post of Veterinary Assistant Surgeon by recruitment through transfer.

8.However, the amended rule does not say that the Petitioners will deem to be functioning as Assistant Veterinary Surgeon from the date of completion of their course and they are entitled to all the attendant and consequential benefits in the said cadre from that date onwards. Unless the Petitioners are appointed against the vacancy in the ratio of 10:1 as contemplated in the amended rules, the Petitioners cannot claim automatic right or entitlement as though they have been recruited in the cadre of Assistant Veterinary Surgeon right from the date of their completion of B.V.Sc., course. Since the Petitioners



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are already in service, it may not be possible for them to do B.V.Sc., course and hence an opportunity was granted to them to improve their career seamlessly and that too without losing their service benefits.

9.No doubt the eligibility criteria for the recruitment of Assistant Veterinary Surgeon has been fixed as degree in B.V.Sc., and 10 years of service in the cadre of Livestock Inspector. The eligibility criteria itself will not confer a person to the post unless the person concerned is recruited or promoted to the particular post. Just because the eligibility rules have been amended to the effect that one of the criteria for appointment in the cadre of Assistant Veterinary Surgeon is 10 years of completion of service and B.V.Sc., degree, the Petitioners cannot presume that they got their appointment in the cadre of Assistant Veterinary Surgeon immediately after they successfully completed their B.V.Sc., course.

10.In fact, the recruitment to the post of Assistant Veterinary Surgeon is not even considered as a promotion but a kind of appointment and that is exactly why the amended rules also contemplate the period of probation from the date of appointment in the cadre of Veterinary Assistant Surgeon for one year, within a continuous period of two years. Hence, the Petitioners who have



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been appointed in the cadre of Veterinary Assistant Surgeon in the year 2002 cannot be reverted back to the year 1988, as the date of their appointment in the said cadre and claim the service benefits in respect of the post of Veterinary Assistant Surgeon.

11.The Petitioners who have got retired from service misguided themselves and they have been making several representations which is neither possible nor compatible.

With these observations, these Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

21.11.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To

1.The Secretary to the Government
Animal Husbandry dairying and Fisheries Department
Secretariat, Chennai 600 009

2.Director of Animal Husbandry and Veterinary Service
Veterinary Hospital Compound
Saidapet, Chennai 600 035

3.Principal Secretary to the Government
Personnel and Administrative Reforms Department
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R.N.MANJULA, J.

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