



W.P(MD)No.8141 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8141 of 2023
and
W.M.P.(MD)Nos.7533 & 7534 of 2023

A.Masanam

... Petitioner

Vs.

1.The Director,
Animal Husbandry and Medicine,
Saidapet, Chennai-600035.

2.The Regional Joint Director,
Animal Husbandry Department,
Madurai-625 020.

3.The Assistant Director,
Animal Husbandry Department,
Tirumangalam, Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the first respondent in Na.Ka.No. 23461/E2/2022-1, dated 24.03.2023 and quash the same as illegal and consequently, direct the respondents to include the name of the petitioner in the eligible candidates of live stock inspector grade 2 and prepare a fresh panel and to proceed further with a training.



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For Petitioner : Mr.S.Satheesh Kumar

For Respondents : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.T.Villavankotahi
Additional Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader appearing for the respondents.

2. The petitioner joined the Animal Husbandry Department as Assistant. The petitioner had earlier filed W.P.(MD)No.23736 of 2019. It was taken up for consideration with few other writ petitions and vide order dated 27.01.2022, the writ petitions were allowed. Paragraph Nos. 10 to 15 reads as follows:-

“10. In the case of the petitioner in W.P.(MD)No.23736 of 2018, the defence of the respondents is that the petitioner has completed only pre-foundation course from Madurai Kamarajar University which is not equivalent to a Higher Secondary Certification.

11. This submission is in-principle, correct and would have been acceptable had it been advanced at the stage of recruitment of the petitioner. Reliance upon decisions of various Division Benches to the effect that pre-foundation course is not equivalent to Higher Secondary certification, is well taken as this is a settled position, as of now.



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12. However, I see a distinction in the present matter. The petitioner has been appointed as Animal Husbandry Assistant on 04.08.2008 and his services were regularized thereafter. The qualification for his recruitment was that he should possess a Higher Secondary Certification.

13. Despite this, holding any a pre-foundation certificate, he was appointed and the respondents have, by conduct waived the qualification of Higher Secondary Course certification in his case, evidently for the reason that the policy of the State at that relevant point in time permitted that. It is only thereafter and with the march of the law, that the policy of the State evolved leading to the present position.

14. As rightly contended by the petitioners, subsequent developments in State policy cannot and should not affect the career path of employees in whose cases, the very same conditions for recruitment applied as for subsequent promotions. Accepting the arguments of the respondents now would result in stagnation of the petitioner in the post of life Stock Grade II for the entirety of his career. It would be an unfortunate situation indeed, and one that this Court cannot endorse.

15. In light of the discussion as aforesaid, this writ petitioner also succeeds. The impugned orders are set aside with all consequent benefits to be granted to the petitioner within a period of four weeks from today.”

3. It is stated that questioning the same, the department has filed Writ Appeal No.599 of 2022. It is stated that the orders have been reserved. The petitioner will be entitled to enjoy the benefits of the order already obtained by him subject to the outcome of the writ appeal.



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G.R.SWAMINATHAN, J.

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4. The Writ Petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petitions are closed.

09.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

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