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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.12773 of 2017 and 14057 of 2017
and
W.M.P.(MD).Nos.9877, 10993 and 10994 of 2017

W.P.(MD).No.12773 of 2017:

P.Sudharson ... Petitioner

Vs.

1.The Director,
Office of the Commissioner for Milk
Production and Dairy Development,
Chennai – 51.

2.The Tamil Nadu Public Service Commission,
Represented by its Member Secretary,
Chennai.

3.The Registrar,
Gandhi Gram Rural Institute Deemed University,
Gandhi Gram,
Dindigul District.

4.The Deputy Registrar (Dairying),
Old Collectorate,
Thanjavur. ... Respondents

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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the order passed by the first respondent in his proceedings in ROC No. 2642/B2/2008 dated 04.07.2017 and the consequential order passed by the fourth respondent in his proceedings in Na.Ka.No.1674/2017/A dated 05.07.2017, quash the same.

For Petitioner : Mr.K.Hemakarthikeyan

For R-1 and R-4 : Mr.D.Sadiq Raja,
Additional Government Pleader.

For R-2 : Mr.J.Anand Kumar,
Standing Counsel.

For R-3 : No Appearance

W.P.(MD).No.14057 of 2017:

K.Subathra ... Petitioner

Vs.

1.The Director,
Office of the Commissioner for Milk
Production and Dairy Development,
Chennai – 51.

2.The Tamil Nadu Public Service Commission,
Represented by its Member Secretary,
Chennai.

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3.The Registrar,
Gandhi Gram Rural Institute Deemed University,
Gandhi Gram,
Dindigul District.

4.The Deputy Registrar (Dairying),
Madurai. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the order passed by the first respondent in his proceedings in ROC No. 2642/B2/2008 dated 04.07.2017 and the consequential order passed by the fourth respondent in his proceedings in Na.Ka.No.1237/A1/2013 dated 05.07.2017, quash the same.

For Petitioner : Mr.S.M.Mohan Gandhi

For R-1 and R-4 : Mr.D.Sadiq Raja,
Additional Government Pleader.

For R-2 : Mr.J.Anand Kumar,
Standing Counsel.

For R-3 : No Appearance

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COMMON ORDER

The Writ Petitions are filed to quash the order dated 04.07.2017 and the consequential order dated 05.07.2017.

2. The petitioners were qualified with M.Sc., Dairy Science and have completed 10 +2+3+2. On 16.04.2011, the respondents called for application to the various posts including 6 posts for Dairy Assistant. The notification states the educational qualification for the post of Dairy Assistant must possess the minimum general qualification and Diploma in Dairying (Indian Dairying Diploma) awarded by the Board of Dairy Education, Government of India. The petitioners applied for the said post on 12.05.2011 and enclosed all their certificates including M.Sc., Dairy Science issued by the University. The second respondent directed the petitioners to submit an equivalency certificate. The petitioners approached the third respondent and obtained an equivalency certificate from Gandhigram Rural Institute which is the deemed University and submitted the same. Accepting such certificate, the petitioners were selected among 13 candidates and they were issued the appointment order on 08.08.2012 and they joined the service and completed their training and also

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passed District Manual Test. In such circumstances, the respondents issued a relieving order on 04.07.2017 on the ground that M.Sc., Dairy Science is not equivalent to the prescribed qualification and direct the second respondent to cancel the selection of the petitioners and removed the petitioners from the selected list. The fourth respondent passed the consequential order dated 05.07.2017 relieving the petitioners from service. Aggrieved over, the present Writ Petitions are filed.

3. At the time of admission, this Court has granted interim stay until further orders vide order dated 11.07.2017 and the petitioners are continued in the said service until now, based on the interim orders.

4. The second respondent has filed a counter stating that the petitioners do not possess special educational qualification prescribed in the rules or its equivalent qualification for the post of Dairy Assistant. Regarding equivalent qualification, paragraph 9 of the Instructions etc., to Candidates states as follows:

> *"If a candidate claims that the educational qualification possessed him / her is equivalent to though not the same as those prescribed for the appointment, the onus of proof rests with the candidates. In such case, the letter*

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evidencing equivalence of qualification can be obtained from the University which awarded the degree to the candidates. However, the same would be subject to the decision of the equivalence Committee Constituted as per G.O.Ms.No.441, P & AR (R) Department dated 20.12.1993 and the decision of the Government. The evidence for the proof of equivalence of qualification should be enclosed along with the application form and the original of the same should be produced at the time of Oral Test or when called for, otherwise, the application will be summarily rejected".

5. Hence, the petitioners were directed to send the evidence for the equivalency. In reply, the candidate has sent a copy of declaration dated 03.10.2011 obtained from the Registrar of Gandhigram Rural Institute Deemed University, wherein, it is stated as under:

"This is to certify that the M.Sc., Dairy Science, a two year post Graduate programme offered by this Institute is more comprehensive and elaborate than the Diploma in Dairying (Indian Dairy Diploma) programme of Board of Dairy Education, Government of India. The duration of M.Sc., Dairy Science programme is 2 years and minimum eligibility for admission is any Science degree. Hence the M.Sc., Dairy Science programme offered by GRI-DU is elaborate and much higher degree than the Indian Dairy Diploma programme offered by Board of Dairy Education, Government of India".

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6. Based on the results of written examination, the petitioners were provisionally admitted for the oral test. Based on the marks obtained in both written examination and oral test, following rule of reservation policies and other recruitment policies, the petitioners were selected. Subsequently, various qualifications obtained by the candidates were placed before 34th Equivalence Committee to ascertain whether the qualification acquired by the candidates are equivalent to the qualification announced to the said post. With reference to the recommendations of the Equivalence Committee's and orders in C.No.1181 / RND-F1 / 2012, the results of the candidates who had reached their turn for selection were released provisionally with condition the appointment is subject to the acceptance of their educational qualification as equivalent to the prescribed qualification. The names and particulars of 5 candidates including the petitioners were communicated to the Head of the Department with reference to the minutes of the Commission's meeting dated 17.05.2012 for conditional appointment (temporary) wherein, the petitioners were directed to be appointed temporarily. Based on the condition, the petitioners joined the service. The 34th Meeting has considered the following degrees as equivalent.

(i) The Indian Dairy Diploma (Dairy Technology) offered by Allahabad Agricultural University.

(ii) National Dairy Diploma (Dairy Technology)

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(iii) M.Sc., Dairy Technology offered by Allahabad Agricultural Institute Deemed University.

However, the course did by the petitioners were declared as not equivalent. Moreover, it was opined that the above said qualification was not suited for the post of Dairy Assistant. Based on the recommendation, the petitioners were relieved from their service without notice. The decision was taken based on the recommendation of the Equivalency Meeting. Therefore, the petitioners cannot claim any equity because it was a conditional appointment order. Therefore, the respondents prayed to reject the writ petitioner's claim.

7. Heard Mr.K.Hemakarthikeyan and S.M.Mohan Gandhi, learned counsel for the petitioners, Mr.D.Sadiq Raja, learned Additional Government Pleader for the respondents 1 and 4. Mr.J.Anand Kumar, learned Standing Counsel for the second respondent.

8. The claim of the petitioners is that even though it is conditional appointment order, the petitioners had served in the said post for the past 10 years from 2012 onwards. Moreover, the petitioners are protected based on the

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interim orders of this court. Now, the petitioners are aged more than 40 years and at this stage, the petitioners cannot compete in the general recruitment process. The petitioners are deprived for taking any other vocation. Therefore, the petitioners are claiming equity.

9. The petitioners further submitted that they were appointed and the Equivalency Committee report has come after lapse of four years, by that time the petitioners have completed four years of service. Therefore, this Court is inclined to protect the service of the petitioners based on the equity. The impugned relieving order is quashed. The respondents are directed to allow the petitioners to continue in service until their retirement.

10. The learned counsel appearing for the petitioner submitted that they were not granted any benefits applicable to the said post, since this lis was pending for all these years. Hence, the respondents are directed to confer all monetary and service benefits applicable to the petitioners. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

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11. With the above direction, the Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

11.01.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

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