



W.P.No.11113 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.08.2024**

CORAM

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P. No. 11113 of 2015

D.Venkatesan

... Petitioner

Vs.

- 1.The Office of the Director of
Animal Husbandry and Veterinary Service,
Central Office Building, Block-II,
Chennai 6.
- 2.The Assistant Director,
District Employment Office,
Salem 636 007.
- 3.The Regional Joint Director,
O/o. Animal Husbandry and Veterinary Services,
Salem – 1.
- 4.The State of Tamil Nadu
Animal Husbandry and Fisheries Department,
rep. by its Secretary, St. George Fort,
Chennai.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the



W.P.No.11113 of 2015

records pertaining to the order passed by the 2nd respondent in
மாத்ரி/593/2013 மாவட்ட வேலைவாய்ப்பு அலுவலகம், சேலம், நாள்
22.11.2013 and quash the same, consequentially issue direction directing
the respondents to consider the petitioner's name to the post of Assistant
in Animal Husbandry and Veterinary Service.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mr.P.Anandakumar
Government Advocate

ORDER

This Writ Petition is filed challenging the order of the second respondent in Ma.thi/593/2013 District Employment Office, Salem dated 22.11.2013 and for consequential direction to consider the name of the petitioner for appointment to the post of Assistant in Animal Husbandry and Veterinary Service.

2. It is the case of the petitioner that he was born on 10.05.1978 and belongs to Most Backward Community and after completing IX Standard at Sankari Higher Secondary School, he got himself registered with the second respondent employment exchange on 04.12.1996 with



W.P.No.11113 of 2015

Registration No.3663/1996 and he had been renewing the registration periodically subsequently. While so, the third respondent had issued an advertisement calling for the interview for the post of Assistant in the Animal Husbandry and Veterinary department through the employment seniority basis in the year 2006-2007. As per the advertisement, there were 57 vacancies. Out of which, 40 was in respect of non-priority candidates and 17 was in respect of priority candidates. Earlier, based on the request made by the third respondent, the names were sponsored in the ratio of 1:1 and subsequently, the ratio of nomination was changed and therefore, a fresh list on the basis of 1:5 was sponsored. Subsequent to the selection process, a selection list was published by the proceedings dated 25.02.2008. Since the name of the petitioner did not find place in the selected list, the same was challenged by the petitioner in W.P.No.22021 of 2008. By order dated 04.07.2012, the Writ Petition came to be dismissed as the petitioner has not reached the zone of consideration, as the candidates in respect of Most Backward Community non-priority general category persons who have registered on 04.12.1996 were not considered and persons registered up to 30.07.1985 alone were



W.P.No.11113 of 2015

considered. However, when an appeal was preferred by the petitioner in W.A.No.2333 of 2012, the Hon'ble Division Bench of this Court by order dated 07.01.2013 was pleased to dispose of the Writ Appeal by setting aside the impugned order passed in the Writ Petition and directed the respondents to consider the petitioner for appointment in the remaining vacancies. Subsequently, a Review filed by the respondents in Review Application SR.61555 of 2013 that came to be dismissed by order dated 03.01.2014. The petitioner had thereafter filed a Contempt Petition No.2472 of 2013, complaining violation of the order in W.A.No.2333 of 2012, as according to him, the appointment orders as directed in the said Writ Appeal was not issued. However, by order dated 19.09.2014, the Contempt Petition was dismissed as withdrawn. This was only in view of the fact that by a subsequent order dated 22.11.2013, the second respondent has rejected the application of the petitioner as he has not reached the zone of consideration. Assailing the impugned order dated 22.11.2013, the petitioner is before this Court in the second round of litigation.



W.P.No.11113 of 2015

3. The learned counsel for the petitioner argued that when the issue was gone into by this Court in the earlier round and when the Hon'ble Division Bench of this Court specifically after having found that atleast two of the persons who have successfully registered after the name of the petitioner and are juniors in respect of the date of registration, directed the respondents to consider the appointment of the petitioner in available remaining vacancies. Hence, the respondents ought not to have rejected the claim by taking a new stand. The learned counsel further contended that, when the reasons now adduced in the impugned order was not taken by the respondents before this Court in the earlier round of litigation, they are precluded from advancing any new case for the first time in the present Writ Petition. The learned counsel also contended that the candidates referred to in the Division Bench were registered in the year 1997, but now by filing the counter affidavit, the respondents are only attempting to project as if they have the registration prior to the date of registration of the petitioner, which is erroneous, and sought for allowing the Writ Petition.



W.P.No.11113 of 2015

4. Per contra, the learned Government Advocate appearing for the

respondents argued that in fact only since the petitioner has not reached the zone of consideration in respect of advertisement calling for interview by the respondents for appointment to the post of Assistant in the Animal Husbandry and Veterinary Services, his name was not considered. The learned Government Advocate also by relying on the counter affidavit, submitted that since the two candidates particularly referred to by the petitioner viz., one K.Thangan and D.Chellamuthu in fact have registered in the year 1982 and 1984 respectively, whereas the petitioner had only registered in the employment exchange in the year 1996, the petitioner cannot have any grievance that any of his juniors have been overlooked and considered for selection. Only by furnishing those details, the impugned order came to be passed, which is perfectly in order and sought for dismissal of the Writ Petition.

5. Heard the rival submissions and perused the materials available on record.



W.P.No.11113 of 2015

6. It is the admitted case of the petitioner that he had completed

IX Standard and has registered with the second respondent on 04.12.1996 in Registration No.3663. The advertisement has been issued by the third respondent for selection to the post of Assistant in Animal Husbandry and Veterinary Services through employment exchange basis in the year 2006-2007. In the advertisement, 57 vacancies were notified and called for from the District Employment Office, Salem for nomination of the suitable candidates, out of which 40 candidates were considered for non-priority category and 17 candidates were to be considered in the priority category. Even though the earlier names in the ratio of 1:1 were sponsored, subsequently, as per G.O.Ms.No.18, Labour and Employment (N2) Department dated 25.02.2008, the earlier list was cancelled and a fresh list in the ratio of 1:5 was sponsored by the employment exchange. In the process, those candidates all belonging to the Non-priority general category who have registered up to 28.07.1982 were considered and in respect of those candidates who belong to Most Backward Community Non priority, those registered up to 30.07.1985 were considered.

7. Only since the petitioner has admittedly registered on



W.P.No.11113 of 2015

04.12.1996 and he has not reached the zone of consideration, the earlier Writ Petition came to be dismissed. However, in the Writ Appeal, the selection list was taken note of, wherein in respect of two candidates one K.Thangan and D.Chellamuthu whose Registration Nos.4505 and 5767 were shown by the continuous number of 1997 and 1998 respectively, that has been construed to be the year of registration in the employment exchange.

8. In the present Writ Petition, detailed counter affidavit has been filed, wherein it has been specifically stated that under the Most Backward Community general non-priority category candidates, only the candidates registered up to 30.07.1985 alone were nominated and under general turn non-priority candidates including Most Backward Community, registrations made only up to 28.07.1982 were nominated. However, it has been brought to notice that two candidates K.Thangan and D.Chellamuthu which is referred to in earlier round of litigation and admittedly whose selection has not been disturbed are having registration numbers prior to the above mentioned two dates. K.Thangan who is



W.P.No.11113 of 2015

having Registration No. 4504 has S.S.L.C. Qualification, got himself registered on 19.11.1982 and so far as other candidate D.Chellamuthu who is having Registration No.5767, is also having S.S.L.C qualification and he got himself registered on 23.07.1984.

9. Therefore, both the candidates who got selected in the selection list published by the third respondent have been registered with the employment exchange on 19.11.1982 and 23.07.1984 respectively, with a higher qualification of having passed S.S.L.C., whereas, the petitioner who had registered himself in the employment exchange on 04.12.1996 is admittedly atleast 14 years junior to the two candidates referred therein in respect to their date of registration and further only the candidates having been sponsored till the date of 30.07.1985 and 28.07.1982 in the two priority and non-priority categories, the petitioner has admittedly not reached the zone of consideration and therefore, though his name has been sponsored, he was not able to be successful in selection. In view of the above, there is no merits in the present Writ Petition.



W.P.No.11113 of 2015

10. Accordingly, the Writ Petition stands dismissed. However, there is no order as to costs.

30.08.2024

Index :Yes/No

gsa

To

- 1.The Office of the Director of
Animal Husbandry and Veterinary Service,
Central Office Building, Block-II,
Chennai 6.
- 2.The Assistant Director,
District Employment Office,
Salem 636 007.
- 3.The Regional Joint Director,
O/o. Animal Husbandry and Veterinary Services,
Salem – 1.
- 4.The State of Tamil Nadu
Animal Husbandry and Fisheries Department,
rep. by its Secretary, St. George Fort,
Chennai.



WEB COPY



W.P.No.11113 of 2015

G.ARUL MURUGAN, J.

Gsa

W.P. No.11113 of 2015

30.08.2024