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W.P. No.15164 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.10.2024

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THE HONOURABLE MRS.JUSTICE N.MALA

W.P. No.15164 of 2016 and
W.M.P.No.13204 of 2016

M.Fazlur Rahman

... Petitioner

Vs

1.The Director of Animal Husbandry
and Veterinary Services, Chennai 600 006.

2.The Regional Joint Director of Animal Husbandry,
Cuddalore, Cuddalore District.

3.The Assistant Director of Animal Husbandry,
Cuddalore, Cuddalore District.

4.Gunasekara Pandian

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in Na.Ka.No.43242/E1/15 dated 30.11.2015 and the panel of Senior Veterinary Live Stock Inspectors as on 01.07.2014 issued by the first respondent in Na.Ka.No.46658/E.I/2014 dated 16.02.2015 and quash the same in so far as the inclusion of the fourth respondent is concerned and direct the respondent 1 to 3 to include the petitioner's name against



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Sl.No.65 in the said panel in the place of fourth respondent and grant him all consequential benefits.

For Petitioner : Mr.P.Mohanraj

For Respondents : Mrs.S.Anitha,
Special Government Pleader for R1 and R3.
R4 – No appearance

ORDER

The writ petition is filed challenging the order of the first respondent dated 30.11.2015 in Na.Ka.No.43242/E1/15 as well as the panel of Senior Veterinary Live Stock Inspectors as on 01.07.2014 issued by the first respondent in Na.Ka.No.46658/E.I/2014 dated 16.02.2015 in so far as the inclusion of the fourth respondent is concerned and direct the respondents 1 to 3 to include the petitioner's name against Sl.No.65 in the said panel in the place of the fourth respondent and to grant all consequential benefits.

2. The petitioner was initially appointed as Laboratory Assistant on 04.12.1980 and was subsequently promoted to Live Stock Inspector Grade-II on 03.04.2001. Further, the petitioner was promoted to Live Stock Inspector Grade-I on 09.11.2009. According to the petitioner, the fourth respondent Gunasekara Pandian was also promoted to Live Stock Inspector Grade-I along with the petitioner on



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09.11.2009, however, he was junior to the petitioner in age. On 11.09.2014, the Director of Animal Husbandry called for particulars of 184 officials for preparation of the panel for promotion to the post of Senior Veterinary Live Stock Inspector as on 01.07.2014. In the said panel, the petitioner's name was placed at Sl.No.158, while the name of the fourth respondent was placed at Sl.No.112. It is the petitioner's case that he was senior to the fourth respondent and that his name ought to have been placed above the fourth respondent at S.No.111. Subsequently, the petitioner submitted a representation to the Director on 01.10.2014. The Regional Joint Director of Animal Husbandry Department, Cuddalore sent a communication to the Director of Animal Husbandry on 30.12.2014, stating that the Assistant Director of Animal Husbandry, Cuddalore vide his letter dated 01.10.2014, informed that the name of the petitioner ought to have been placed Sl.No.111 instead of 158. Despite the above recommendation of both the Assistant Director and the Regional Joint Director, the petitioner's name was not included in the panel issued by the Director of Animal Husbandry and Veterinary Services, Chennai in his proceedings dated 15.12.2015. No reasons were assigned for the exclusion of the petitioner's name while the name of the fourth respondent who was junior to him was included at Sl.No.65. The petitioner was fully qualified for promotion to the post of Senior Veterinary Live Stock Inspector as on 01.07.2014.



3. The petitioner submitted an appeal against the non-inclusion of his name on 25.02.2015. The petitioner's appeal was forwarded to the first respondent by the second respondent on 03.03.2015. However, no order was passed on the appeal, thereby, the petitioner was constrained to file the writ petition in W.P.No.21344 of 2015 for a Writ of Certiorarified Mandamus to call for the records relating to the panel of Senior Veterinary Live Stock Inspector as of 01.07.2014, issued by the first respondent on 15.02.2015 and to quash the inclusion of the fourth respondent while directing the respondents to include his name at Sl.No.65 in place of the fourth respondent, along with all consequential benefits. This Court vide order dated 16.07.2015 directed the first respondent to consider the petitioner's representation dated 25.02.2015 in light of the recommendations of the Assistant Director of Animal Husbandry, Cuddalore and the Regional Director of Animal Husbandry, Cuddalore. In pursuance of this Court's order, the first respondent issued the impugned order dated 30.11.2015, rejecting the petitioner's appeal on the ground of delay. Aggrieved by the order passed by the first respondent, the petitioner has filed the present petition.

4. The respondents filed a counter stating that the seniority of the petitioner was fixed with effect from 11.07.2013 in accordance with G.O.Ms.No.1140 Personal Administrative Reforms (Per-3) Department dated 02.12.1983 and Rule 35



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of the Tamil Nadu State and Subordinate Service Rules. The respondents asserted that any appeal with regard to the seniority should be submitted within three years from the date of fixation of seniority. The petitioner had failed to submit the appeal within the stipulated period and hence, the request to revise the seniority was not considered. As a result, the appeal was rightly rejected vide impugned order. The respondents further submitted that there was no merit in the writ petition and the same deserved to be dismissed.

5. The learned counsel for the petitioner submitted that even from the counter of the respondents, it is clear that the seniority list of Livestock Inspector Grade-I was prepared only on 11.07.2013. The petitioner had submitted his representation on 25.02.2015. Therefore, the contention of the respondents that the appeal was filed beyond three years in violation of Rule 35 of Tamil Nadu State and subordinate Service Rules, was unsustainable. Hence, he prayed that the impugned order be set aside.

6. The learned counsel for the respondents submitted that the impugned order was rightly passed and did not warrant any interference.

7. Heard both sides. Perused the material available on record.



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8. Admittedly, the impugned order was passed on the short point of delay. In the impugned order it was stated that an appeal against the fixation of seniority ought to have been filed within three years as per the Rule 35 of the Tamil Nadu State and subordinate Service Rules, and as the appeal was filed by the petitioner beyond the stipulated period of three years, it was not entertained. As rightly contented by the learned counsel for the petitioner the seniority of the petitioner to the post of Life Stock Inspector Grade-I was fixed on 11.07.2013 and the representation against this fixation was submitted by the petitioner on 25.02.2015. Therefore, the representation was well within the three years period stipulated in Rule 35 of the Tamil Nadu State and Subordinate Service Rules. Hence, the reason assigned by the first respondent that the appeal was filed beyond the stipulated period of three years in violation of Rule 35 of Tamil Nadu State and Subordinate Service Rules is unsustainable.

9. Under the facts and circumstances of the case, it is lucid that the impugned order suffers from total non-application of mind. It is evident from the dates mentioned above that the appeal was filed within the required time. Therefore, I am of the view that the impugned order cannot be sustained and the same is hereby set aside. The respondents are directed to reconsider the petitioner's representation



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dated 25.02.2015, afresh, keeping in mind the recommendation of the Regional Joint Director of Animal Husbandry, Cuddalore dated 30.12.2024. The first respondent is directed to pass orders on the petitioner's representation on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. Accordingly, the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

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Speaking (or) Non Speaking Order

Index : Yes/ No

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To

- 1.The Director of Animal Husbandry
and Veterinary Services, Chennai 600 006.
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Cuddalore, Cuddalore District.
- 3.The Assistant Director of Animal Husbandry,
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N.MALA, J.

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