



W.P.No.6377 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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and

W.M.P.No. 6455 of 2022

- 1.Dr.A.Eswari
- 2.Dr.P.Kumarasamy
- 3.Dr.R.Sathyamoorthi
- 4.Dr.G.Guru Priya
- 5.Dr.Sakthivel
- 6.Dr.J.Arumugam
- 7.Dr.S.Malathi
- 8.Dr.G.Srilakshmi
- 9.Dr.K.Baskaran
- 10.Dr.S.Anitha
- 11.Dr.K.P.Senningiri
- 12.Dr.Prabu
- 13.Dr.T.Sakthivel
- 14.Dr.S.Rajathi
- 15.Dr.Vijayakumar
- 16.Dr.D.Revathipriya
- 17.Dr.G.Balasubramaniam
- 18.Dr.S.Yuvaraja
- 19.Dr.P.Pradeepa
- 20.Dr.C.Prakash
- 21.Dr.R.Muruganantham
- 22.Dr.R.Vidhya
- 23.Dr.Parvathi
- 24.Dr.Saravanakumar
- 25.Dr.V.Yuvaraj
- 26.Dr.N.Valarmathi
- 27.Dr.P.Nithiyanandhi
- 28.Dr.M.Jayavel
- 29.Dr.S.K.Magudeswarn



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- 30.Dr.P.Anandababu
- 31.Dr.S.Shanmugam
- 32.Dr.N.Suresh
- 33.Dr.M.Manickavasaham
- 34.Dr.K.P.Muthukumar
- 35.Dr.M.Chandrasekaran
- 36.Dr.N.Ramesh
- 37.Dr.K.Sukumar
- 38.Dr.M.Mohan
- 39.Dr.K.Jayanthi
- 40.Dr.M.Rajesh
- 41.Dr.S.Yasothai
- 42.Dr.V.Kavitha
- 43.Dr.P.Arthanreeswaran
- 44.Dr.M.Prabavathi
- 45.Dr.R.Rajakumar
- 46.Dr.V.Shoba
- 47.Dr.M.Ramya
- 48.Dr.K.Sridharan
- 49.Dr.P.Suseela
- 50.Dr.P.Vidyasagar
- 51.Dr.K.Giriraj
- 52.Dr.C.Kalaiselvi
- 53.Dr.A.Kavitha
- 54.Dr.T.Raja
- 55.Dr.S.Rai
- 56.Dr.D.Sekar
- 57.Dr.R.Kalimuthu
- 58.Dr.m.Murugsasen
- 59.Dr.K.Revathi
- 60.Dr.A.Sabibullah
- 61.Dr.G.Umesh Bhoobalan
- 62.Dr.D.Nithya
- 63.Dr.K.Gomathi
- 64.Dr.M.Hajee Mionudeen Siddiq
- 65.Dr.S.Saravanakumar
- 66.Dr.M.Prabakaran
- 67.Dr.A.Karthikeyan
- 68.Dr.D.Ramya
- 69.Dr.M.Ravichandran
- 70.Dr.A.Karthikeyan



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- 71.Dr.R.Damodaran
- 72.Dr.B.K.Satheesh
- 73.Dr.S.Devi
- 74.Dr.T.P.Vidhyamanohari
- 75.Dr.G.Maladevi Mangaykarasi
- 76.Dr.P.Meganath
- 77.Dr.R.Surendirababu
- 78.Dr.B.Saveetha
- 79.Dr.L.Uma Maheswari
- 80.Dr.S.Arun
- 81.Dr.M.Murugesan
- 82.Dr.R.Jothi
- 83.Dr.P.Nithyavalli
- 84.Dr.G.Dhanaraj
- 85.Dr.S.Saravanan
- 86.Dr.M.Parthasarathy
- 87.Dr.K.Rajeevi
- 88.Dr.C.N.Annadurai
- 89.Dr.J.John Vivilian
- 90.Dr.A.Govindarasu
- 91.Dr.Sathish Kumar
- 92.Dr.Mabbobkhan
- 93.Dr.Chandrasekar
- 94.Dr.S.Suvacini
- 95.Dr.Prochelian
- 96.Dr.M.Thirumal
- 97.Dr.Thiyagaseelan
- 98.Dr.Ganesan
- 99.Dr.Gopala Krishnan
- 100.Dr.K.Gowthaman
- 101.Dr.A.Thaval Thendral
- 102.Dr.Vasu Devi
- 103.Dr.Kannagi
- 104.Dr.Sobana
- 105.Dr.Anton Roseline
- 106.Dr.A.Prabhakaran
- 107.Dr.S.Anbalaki
- 108.Dr.Akila
- 109.Dr.G.Murali
- 110.Dr.Rajesh Kumar
- 111.Dr.T.Elavarasi



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112.Dr.R.Manimegalai

113.Dr.K.Murugarasu

114.Dr.V.Muthudurai

115.Dr.R.Pavai

116.Dr.C.Buveneswari

117.Dr.P.Selvaraj

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Petitioners

Vs

1. The Government of Tamil Nadu,
Rep. by its Additional Chief Secretary,
Department of Fisheries,
Fisheries Development Corporation and
Animal Husbandry,
Fort St.George, Chennai – 600 009.

2. Director of Animal Husbandry and
Veterinary Services,
No.571, Anna Salai,
Nandanam, Chennai – 600 035.

3. The Commissioner of Animal Husbandry
Veterinary Services,
Central Office Buildings,
Block-II, Chennai – 600 006.

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Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the second respondent in ROC No.17632/M1/2020 dated 12.11.2020 quash the same and consequently direct the respondents to grant approval for the Selection Grade with effect fro the date of appointment order and monetary benefits.

For Petitioner : Mr.V.N.Subramaniam

For Respondents : Mr.V.Veluchamy

Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the order



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passed by the second respondent dated 12.11.2020, thereby rejected the request made by the petitioners seeking grant approval for the Selection Grade with effect from the date of their appointment.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioners were appointed as Junior Veterinary Assistant Surgeons in the office of the respondents in the year 2010. While being so, the first respondent passed an order vide G.O.Ms.No.64, Animal Husbandry Dairying and Fisheries (AH-1) Department, dated 28.05.2008 for the purpose of upgradation of Grade-I Veterinary Sub-Centres and appointment of Junior Veterinary Assistant Surgeons. In these upgraded Veterinary Sub-Centres, the Junior Veterinary Assistant Surgeon is possessing a degree in Veterinary Science will be appointed in the scale of pay of Rs.5,000-150-8000. The entire recruitment process was done through the Tamil Nadu Public Service Commission (hereinafter referred as “TNPSC”).

4. The TNPSC issued a notification dated 25.02.2009, thereby called for applications for direct recruitment of Veterinary Assistant Surgeon for total vacancies of 59 posts. The written



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examination was held and pay scale for the said post is Rs.6500-200-11100. The first respondent issued G.O.Ms.No.20, Animal Husbandry, Dairying and Fisheries (AH-1) Department, dated 26.02.2009, for the purpose of approval of 444 Veterinary Sub-Centres into upgraded Veterinary Sub-Centres. In the upgraded Veterinary Sub-Centres, the Junior Veterinary Assistant Surgeon is possessing a degree in Veterinary Science will be appointed in the scale of pay of Rs.5000-150-8000. Therefore, the TNPSC issued a supplementary notification dated 28.02.2009 for the earlier notification dated 25.02.2009 and thereby invited the applications for direct recruitment to the post of Junior Veterinary Assistant Surgeon. Accordingly, the petitioners were appointed to the post of Junior Veterinary Assistant Surgeon.

5. Thereafter, the first respondent issued another Government Order in G.O.Ms.No.2, Animal Husbandry Dairying and Fisheries (AH-7) Department, dated 05.01.2012 for the purpose of upgradation of Junior Veterinary Assistant Surgeon as Veterinary Assistant Surgeon by designating the upgraded Sub-Cebtres as Veterinary Dispensaries. As per Government order, the second respondent stated that the post of Junior Veterinary Assistant Surgeon comes under Tamil

Nadu Animal Husbandry service and the educational qualification,



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Veterinary council registration, regularisation are the same as in the case of Veterinary Assistant Surgeons. The mode of appointment/selection to both the post is also one and the same. It is also relevant to extract the portion of the Notification is as follows :

Particulars	Notification/ Advertisement No. 188, dated 25.02.2009	Notification/ Advertisement No.192, dated 28.02.2009 (Supplement to the Commission's Notification/ Advertisement No.188, dated 25.02.2009)
Name of the post	Veterinary Assistant Surgeon	Junior Veterinary Assistant Surgeon
Number of post	59	444
Date of written examination	31.05.2009	31.05.2009
Educational qualification	B.V.Sc degree of any university or institution recognised by the University grants commission for the purpose of its grant	B.V.Sc degree of any university or institution recognised by the University grants commission for the purpose of its grant
Scale of pay	Rs.6500-200-11100/-	Rs.5000-150-8000/-

6. Therefore, the Government accepted and upgraded the post of Junior Veterinary Assistant Surgeon as Veterinary Assistant Surgeon. Further it is stated that there will not be any recruitment of Veterinary doctors in the cadre of Junior Veterinary Assistant Surgeon in future as the posts of Assistant Veterinary Surgeon / Veterinary Assistant Surgeon have same qualification, same mode of recruitment and similar



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nature of work but carry different scale of pay which creates disparity and complications. Accordingly, after upgradation of their post as Veterinary Assistant Surgeon, their pay band was revised as 15600-39100-39100+Grade Pay Rs.5400. Thereafter, the second respondent, by the proceedings in ROC No.26050/M2/2013, dated 01.08.2013, regularised the service of the Junior Assistant Surgeon, those who have been selected by the TNPSC during the year 2009. Further the second respondent rejected and returned the proposals of the Junior Veterinary Assistant Surgeon as a Selection Grade and informed that only on completion of 10 years service in the post of Veterinary Assistant Surgeon by the impugned order dated 12.11.2020.

7. A perusal of the counter filed by the second respondent and the submission made by the learned Additional Government Pleader revealed that though the petitioners services were upgraded as Veterinary Assistant Surgeon, they were reported as Junior Veterinary Assistant Surgeon. As G.O.Ms.No.68, Personnel and Administrative Reforms (Per.M) Department, dated 23.01.1986, the services rendered in a lower post cannot be taken into account as qualifying services in the higher post for advancement to the Selection/Special Grade.



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8. As stated supra, as per G.O.Ms.No.2, Animal Husbandry Dairying and Fisheries (AH-7) Department, dated 05.01.2012, accepted both the posts, viz., Junior Veterinary Assistant Surgeon and Veterinary Assistant Surgeon, are one and the same and it has same qualification and same designation. It is relevant to extract the portion of the said G.O. is as follows :

“6. After careful examination the Government accept the proposal of the Director of Animal Husbandry and Veterinary services and issue order as follows :

I) To upgrade the 422 post of Junior Assistant Surgeons existing in the Animal Husbandry Department as Veterinary Assistant Surgeon pay in the pay band-3 (Rs.15600-39100-39100+Grade Pay Rs.5400) and designating the upgraded Sub Centres as Veterinary Dispensaries.

II) The Tamil Nadu Public Service Commission has withheld the publication of the result of 5 Junior Veterinary Assistant Surgeon as soon as the result is published by Tamil Nadu Public Service Commission they will be appointed and converted as Veterinary Assistant Surgeon in the Animal Husbandry Department.

III) Sanction additional annual recurring expenditure of rupees 5.20 crores (Rupees 5 Crores and 20 Lakhs only) toward the upgradation of 422 post of Junior Veterinary Assistant Surgeon in the scale of pay in the pay band-2 (Rs.9300-34800+Grade Pay Rs.4200) to



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that of Veterinary Assistant Surgeon in the scale of pay in the pay band 3 – Rs.15600-39100-39100+Grade Pay Rs.5400)

IV) The additional expenditure of rupees 1.30 crores towards the pay and allowances for the period from January to March, 2011 will be provided in revised estimate final modified appropriation 2011 to 2012 under the respective subheads under “24030-00-Animal Husbandry”. Pending provision of funds the Director of Animal Husbandry and Veterinary services is authorised to Incur additional expenditure under relevant sub heads and requested to include the expenditure while sending the proposal for revised estimate/final modified appropriation 2011-2012 to Government in Finance (AH & F) Department without fail. He is also requested to send necessary draft explanatory notes for inclusion of the expenditure in the supplementary estimate 2011-12 to finance Department.

V) Necessary amendment to the special rules for the Tamil Nadu Animal Husbandry subordinate service rules will be issued separately.

VI) There will not be any recruitment of Veterinary doctors in the cadre of Junior Veterinary Assistant Surgeon in future as the post of the Assistant Veterinary Surgeon/Veterinary Assistant Surgeon have same qualification, same mode of recruitment and similar nature of work but carry different scale of pay which



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creates disparity and complications.”

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9. Therefore, it cannot be said that the Junior Veterinary Assistant Surgeon post is lower post to the Veterinary Assistant post. As per the Government order, both the posts are one and the same. However, as per Notification/Advertisement No.192, dated 28.02.2009, the TNPSC called for applications to the post of Junior Veterinary Assistant Surgeon and the petitioners had applied to the said post and they were appointed in the said post. Subsequently, G.O. Ms.No.2, dated 05.01.2012, both the posts are declared as one and the same and the post of Junior Veterinary Assistant Surgeon has been upgraded as Veterinary Assistant Surgeon. Therefore, the petitioner may not be entitled for monetary benefits as to the post of Veterinary Assistant Surgeon from the date of their appointment till their upgradation, but they are entitled for the benefit of Selection/Special Grade as from the date of their initial appointment.

10. In view of the above, the order in ROC No.17632/M1/2020 dated 12.11.2020, is hereby quashed. The respondents are directed to grant approval for the Selection/Special Grade for the petitioners with effect from their initial date of appointment as



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Junior Veterinary Assistant Surgeon and grant monetary benefits forthwith. It is made clear that the petitioners are not entitled for any monetary benefits for the scale of pay granted to the post of Veterinary Assistant Surgeon from the date of their initial appointment till the date of upgradation to the post of Veterinary Assistant Surgeon.

11. In the result, this Writ Petition is allowed.

Consequently, connected miscellaneous petition is closed. No costs.

27.02.2024

Index : Yes/No
Neutral citation : Yes/No
Speaking/Non Speaking order
Lpp

To

1. The Additional Chief Secretary,
Department of Fisheries,
Fisheries Development Corporation and
Animal Husbandry,
Fort St.George, Chennai – 600 009.

2. Director of Animal Husbandry and
Veterinary Services,
No.571, Anna Salai,
Nandanam, Chennai – 600 035.

3. The Commissioner of Animal Husbandry



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Veterinary Services,
Central Office Buildings,
Block-II, Chennai – 600 006.

G.K.ILANTHIRAIYAN, J.

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