



WEB COPY

W.P.No.39900 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.39900 of 2015

and

M.P.No.1 of 2015

S.Ramasamy

... Petitioner

Vs.

1.The Director of Animal Husbandry
and Veterinary Service,
DMS Buildings,
Teynampet, Chennai-600 006.

2.The Regional Joint Director of Animal Husbandry,
Bangalore Road, Krishnagiri, Krishnagiri District.

3.The Deputy Director,
Department of Animal Husbandry Maintenance,
District Live Stock Farm,
Maddhigir, Hosur, Krishnagiri.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records in Na.Ka.No.2154/LW/2015 dated 28.05.2015 issued by the 1st respondent and quash the same as arbitrary exercise of power and violative of Article 14 of the constitution of India, and consequently direct the respondents 1 to 3 pass necessary orders to promote the petitioner to the post of Maistry with effect from 01.06.1997, the date on which he completed 6 years of qualifying



service or in the alternative promote him from the date on which his immediate juniors were promoted to the post of Maistry from the post of Assistant.

For Petitioner : Ms.R.Megha

For Respondents : Mr.P.Ganesan
Additional Government Pleader.

ORDER

The petitioner herein was appointed as Animal Husbandry Assistant in the office of the 3rd respondent on 10.11.1976 on daily wage basis. While continuing as such, the services of the petitioner in the said post was regularized on 01.05.1991. It was thereafter, on completion of six years of service in the post of Animal Husbandry Assistant, the petitioner became eligible for being considered for promotion to the post of Maistry. The petitioner also claims to have possessed all other requisite qualifications for being considered for promotion to the said post. However, his case was not considered for promotion and therefore, the petitioner submitted a representation dated 05.06.2014 and 29.11.2014, requesting for consideration of his case for promotion to the post of Maistry, and complaining inaction on the part of the respondents in considering the said representations, the petitioner also approached this Court by filing W.P.No.427 of 2015, and this Court by an order dated 17.02.2015 directed the 1st respondent to consider the



said representations submitted by the petitioner. It was pursuant to the said direction, the 1st respondent considered the claim of the petitioner for promotion to the post of Maistry and passed the impugned order stating that the petitioner is not eligible for being considered for appointment to the post of Maistry, as he already crossed 45 years of his age, as early as in the year 2009.

2. As seen from the impugned order, it is noticed that the qualifications that are prescribed for the post of Maistry through G.O.Ms.No.3049 Agriculture Department, dated 06.01.1969 provides that the candidate for being considered for appointment by promotion should not have completed the age of 45 years. It is not in dispute that the petitioner has crossed 45 years of age. The Junior of the petitioner, who is alleged to have been promoted ignoring the case of the petitioner, was promoted only on 02.12.2009 by which time the petitioner has already crossed the 45 years of age and became ineligible in terms of qualifications prescribed for the post of Maistry.

3. Though it is stated in the affidavit filed in support of the writ



petition that the several other persons who have completed the age of 45 years were considered for promotion to the post of Maistry and appointed as such after crossing the age of 45 years during the years 2000-04 is concerned, even if the same is assumed to be true, the said appointment by promotion after crossing the age of 45 years to the post of Maistry is contrary to the Rules and the qualifications prescribed for the said post. Even assuming that such proceedings were issued in favour of the ineligible candidates, that would not entitle the petitioner to claim the benefit on par with the said persons who were illegally appointed by promotion to the post of Maistry. The inequality that can be complained of before this Court is only in respect of legal acts, but not equality on par with an illegality committed by the respondents. In the sense, the negative equality cannot be granted by this Court while exercising its jurisdiction under Article 226 of the Constitution of India.

4. As admittedly the petitioner became over aged by the year 2009, and no material is placed before this Court to show that any of his juniors were promoted while the petitioner was eligible for being considered and appointed to the post of Maistry, this Court does not find any error or illegality in the impugned order passed by the respondents.



5. Accordingly, this writ petition is dismissed. The connected miscellaneous petitions, if any, shall stand closed. No costs.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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MUMMINENI SUDHEER KUMAR, J.

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