



W.A.(MD)Nos.597 to 599 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.12.2023

PRONOUNCED ON : 02.02.2024

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.A(MD)Nos.597 to 599 of 2022
and
C.M.P.(MD)Nos.5058, 5061, 5062 of 2022

W.A(MD)No.597 of 2022:

- 1.The Director,
Animal Husbandry and Medicine,
Saidapet, Chennai 600 035.
- 2.The Regional Joint Director,
Animal Husbandry Department,
Madurai 20.
- 3.The Assistant Director,
Department of Animal Husbandry,
Thirumangalam, Madurai.

... Appellants

Vs.

V. Ilango

... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.23733 of 2019, dated 27.01.2022.



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W.A(MD)No.598 of 2022:

- 1.The Director,
Animal Husbandry and Medicine,
Saidapet, Chennai 600 035.
- 2.The Regional Joint Director,
Animal Husbandry Department,
Madurai 20.
- 3.The Assistant Director,
Department of Animal Husbandry,
Oomachikulam, Madurai.

... Appellants

Vs.

A.Vasu

... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.23735 of 2019, dated 27.01.2022.

W.A(MD)No.599 of 2022:

- 1.The Director,
Animal Husbandry and Medicine,
Saidapet, Chennai 600 035.
- 2.The Regional Joint Director,
Animal Husbandry Department,
Madurai 20.
- 3.The Assistant Director,
Department of Animal Husbandry,
Thirumangalam, Madurai.

... Appellants



W.A.(MD)Nos.597 to 599 of 2022

Vs.

A.Masanam

... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.23736 of 2019, dated 27.01.2022.

In all cases:

For Appellants : Mr.N.Satheesh Kumar
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

The writ appeal W.A.(MD)No.597 of 2022 is filed against the order, dated 27.01.2022, passed in W.P.(MD)No.23733 of 2019. The writ appeal W.A.(MD)No. 598 of 2022 is filed against the order, dated 27.01.2022, passed in W.P.(MD)No. 23735 of 2019. The writ appeal W.A.(MD)No.599 of 2022 is filed against the order, dated 27.01.2022, passed in W.P.(MD)No.23736 of 2019.

2. The writ petition in W.P.(MD)No.23733 of 2019 is filed by Mr. V. Ilango, W.P.(MD)No.23735 of 2019 is filed by Mr. A. Vasu and W.P.



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(MD)No.23736 of 2019 filed by A. Masanam for the prayer of Certiorarified Mandamus, to quash the impugned order, dated 11.10.2019, with a consequential prayer to place a single post out of the existing vacant post of 58 to the petitioner.

3. The brief facts as stated in the writ petition are that the writ petitioner Mr. V. Ilango was appointed as Assistant on 14.07.2010 and regularized in the year 2012. The writ petitioner A. Vasu was appointed as Assistant on 04.08.2008 and confirmed on 04.08.2010. The writ petitioner A. Masanam was appointed as Assistant on 21.07.2008 and confirmed in the year 2010. The writ petitioners have completed 5 years of service in the same office. The first respondent vide letter dated 13.11.2017 directed the second respondent to send the list of eligible persons for the 11 months training in Live Stock Inspector Grade II. Also directed the 3rd respondent vide letter dated 16.11.2017 to send a list. The recommendation letter was sent with all details by the third respondent to the first respondent through second respondent on 20.11.2017. The writ petitioners have also submitted their consent letters along with necessary particulars to the said training. The 3rd respondent has sent the



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details of persons to undergo training vide letter dated 26.09.2019 to the second respondent, wherein Na.Ka.No.2991/Aa/2019, dated 16.06.2019 was shown as reference and an email, dated 25.09.2019. On 11.10.2019, the first respondent sent a letter to the second and third respondents and sought willingness from the concerned candidates. Thereafter, the Government issued G.O.4D.No.01, Department of Animal Husbandry, Milk Resource and Fisheries (Ka.Pa.1-2), dated 26.07.2019, wherein 240 members were given chance to attend the training. From 21.10.2019, persons who are selected were directed to be present before the Assistant Director on 21.10.2019 along with original and certificates (photo copies). The second respondent has sent list of persons who finished five years of service as Assistant, vide letter, dated 16.09.2019 and the petitioner's name Mr. V. Ilango was in Serial No.2. And other writ petitioners name was also there in the list. But the respondents failed to send the writ petitioners to attend training, even though the petitioners have completed more than five years of service.

4. The writ petitioners again submitted requisition letter stating that as on 01.07.2017, the writ petitioners were eligible to attend the training.



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But, the first respondent has issued a list, where the writ petitioners' name was not included. So, the writ petitioners challenged the impugned list, dated 11.10.2019 in W.P. (MD)No.23733 of 2019, W.P.(MD)No.23735 of 2019 and W.P.(MD)No.23736 of 2019.

5. The first respondent in the writ petition have filed counter affidavit stating that the writ petitioners were appointed as Animal Husbandry Assistant on 14.07.2010 and their service was regularized with effect from 14.07.2010. Earlier, the G.O.Ms.No.181, dated 07.11.2007, prescribed the following conditions for undergoing training as Live Stock Inspector Grade II.

- a) The Animal Husbandry Assistant shall possess Higher Secondary qualification.
- b) The Animal Husbandry Assistant must have ten years of service to the post of Livestock Inspector after completing the 11 months training.
- c) The in-service candidate aspiring to undergo Livestock Inspector Grade-II must have completed five years regular service in Animal Husbandry Assistant post.



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6. Thereafter the G.O.Ms.No.37, dated 19.03.2009 was issued relaxing the condition from 10 years service to 5 years service to the post of Live Stock Inspector Grade II after completing 11 months training. It is an admitted fact that the petitioner's name was proposed in the year 2014 for undergoing the training for appointment to the post of Live Stock Grade-II. The Government issued G.O.4D.No.01, dated 26.07.2019, for providing training to 240 individuals comprising 165 in-service candidates and 75 candidates appointed on compassionate ground. The writ petitioner's (Mr.Ilango) age is 52 years, his date of birth is 22.05.1967 and he has to retired on 31.05.2025. Likewise, the other two writ petitioners are also on the verge of retirement. As per G.O.Ms.No.37, dated 19.03.2009, the petitioner must have 5 years service to the post of Live Stock Inspector Grade II after undergoing the training. The petitioner does not have sufficient service to render in the post of Live Stock Inspector Grade II after undergoing training. Hence, their names were not included in the impugned order. The contention of the appellants is that the writ petitioners have filed misconceived facts as such and the same is liable to be dismissed and prayed to allow the writ appeal and dismiss the writ petition.



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7. After considering the rival submissions the Learned Single Judge, vide common order, dated 27.01.2022, allowed the writ petitions wherein it was held that the writ petitioners had completed five years service in the year 2013 / 2015 respectively and they are eligible for training. The writ petitioners requested to send them for training in the 2017, but the respondents had not considered their names. Again, in the year 2019 the writ petitioners are eligible for the said training, but the respondents had not included the petitioners' name for the reason that the writ petitioners are not having the requisite remaining period of service of five years after training. And the Learned Additional Government pleader justified the reasons for not sending the writ petitioners. The respondents had not stated the reason in the counter for not sending the petitioners for training in the year 2017, but has stated the reason for not sending for training in the year 2019. The delay in sending for training cannot be attributed on the writ petitioners. The writ petitioners' disentitlement is the consequence of the lethargic of the respondents and the fact that they were not prompt in sending the petitioners for requisite training and the bar as set out by the respondents now, is seen merely as an afterthought and cannot be accepted. That apart, the age of superannuation has been increased to 60 years



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from 2021. Hence the Court held the reason cited by the official respondents that inadequate period of service of the writ petitioners cannot be cited and directed the appellants herein to send the writ petitioners for training. Aggrieved by this order, the official respondents have preferred these writ appeals rising various grounds.

8. Heard Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing for the appellants and perused the records.

9. It is an admitted fact that the respondents in the writ appeals were appointed as Assistant in the Animal Husbandry Department and subsequently, was regularized from the date of regularization. The respondents / writ petitioners were eligible for 11 months training for the post of Live Stock Inspector Grade II, but for want of vacancy, the respondents / writ petitioners were not sent for training at the appropriate time. In the year 2013 to 2014, the available vacancy was 350, after 10% for in-service candidates and 33 candidates on compassionate ground and adding backlog vacancy of 7, the remaining vacancy is 289 posts. The appellants have issued paper publication



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calling eligible candidates and the appellants received 2,68,231 applications.

While process of verification was on, the appellants directed the candidates to appear for written test. However, the government vide letter dated 21.11.2017 had ordered to cancel the recruitment process and based on the said letter the entire process of recruitment was cancelled.

10. The appellants' plea is that the respondent / writ petitioner Mr. Ilango's is aged 52 years (his date of birth is 22.05.1967) and he has to retired on 31.05.2025. Likewise, the other respondent / writ petitioners were also on the verge of retirement. As per G.O.Ms.No.37, dated 19.03.2009, the candidate must have 5 years service to the post of Live Stock Inspector Grade II after undergoing the training. The appellants specific plea is that the respondents / writ petitioners do not have sufficient years of service to render to the post of Live Stock Inspector Grade II after undergoing training. Hence, the respondents / writ petitioners name was not included in the impugned order. This plea was not stated in their counter affidavit which was filed at writ petition stage and this fact was specifically recorded by the Learned Single Judge. But the appellants have raised this plea in the present writ appeals. The



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respondents / writ petitioners submitted that the appellants ought to have treated the respondents / writ petitioners under the category of “in-service candidates” and sent them for training at the appropriate time. The appellants ought to have send the respondents / writ petitioners for training prior to 2017, but for want of vacancy the respondents / writ petitioners were not sent for training. Now the appellants had come out with a plea that after 2017 the respondents / writ petitioners are on the verge of retirement and they cannot serve for full five years. This Court is of the considered opinion that if the respondents / writ petitioners were not sent for training at the appropriate time for want of vacancy, the said delay cannot be attributed on the respondents. Consequently, now the appellants cannot be allowed to state that the respondents would not be able to complete five years of service in the post of Live Stock Inspector Grade II after training. On one hand the appellants have not sent the respondents for training at appropriate time and on the other hand now stating training in not necessary since the respondents cannot serve for five years is absolutely arbitrary.

11. The next plea that was raised by the appellants was that the



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respondents in the writ appeals have attained 58 years of age and they would not complete five years in the said post. But the State Government has increased the age of retirement to 60 years in the year 2021. If that is applied, the said the plea of the non-completion of 5 years also fails. The extension of 60 years was granted to all the candidates who were in service as on date of issuance of G.O. Admittedly, the respondents in the writ appeals were not retired on the date of issuance of this said G.O. Therefore, the extension of 60 years is applicable to the respondents. Therefore, on that ground also, the respondents are entitled for training.

12. The issue of “acquiring of service qualification” is dealt with in several writ petitions and the Courts have consistently held that the prescription of service qualification and the delay in acquiring the said service qualification cannot be attributed on the individuals, since the individuals are sent for training by the employer based on the available vacancy. The trainings like Bhavani Sagar training, Revenue Assistant training, Junior Assistant training and other several trainings are considered as service qualification and the Courts have held that delay in sending for service qualification cannot be



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attributed on the employees. Hence the Learned Single Judge had rightly held that the claim of the appellants cannot be accepted, since it is settled proposition that the service qualification cannot be held against the employees.

13. The appellants raised one more plea as far as the respondent in W.A.(MD)No.599 of 2022 namely, A.Masanam is concerned, where it has been stated that the respondent has completed pre-foundation course in Madurai Kamaraj University, which is not equivalent to the 10th standard. It is seen that the said Masanam had joined as Assistant on 21.07.2008 and he had completed pre-foundation course during January 2012 to December 2012. The appellants have relied on G.O.Ms.No.144, Personnel and Administrative Reforms Department, dated 20.11.2017, wherein it has been clarified that the pre-foundation and the foundation course are not equal to 10th standard and 12th standard respectively. While considering the said G.O.Ms.No.144 in the case of P.Thavam and others Vs. the State of Tamil Nadu and others in W.A.(MD)No. 497 of 2022 batch vide judgment dated 05.07.2022 reported in 2022-III-LLJ487 (Mad) this Court had held that the cut-off date for the said G.O.Ms.No. 144 is from the date of issuance of the said G.O. i.e. from 20.11.2017. All



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candidates completed pre foundation and foundation course prior to 20.11.2017 are entitled to be considered for promotion. In the present case the said Masanam had completed the pre foundation course prior to the cut-off date i.e. during January 2012 to December 2012 and hence he is entitled to be considered for promotion and the pre foundation course cannot be cited as reason to reject his promotion. On this ground also, the appellants have not raised any legal plea to interfere with the order of the Learned Single Judge.

14. Hence for the reasons stated supra, all the writ appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

15. All these writ appeals are dismissed in the admission stage itself, hence notice to the respondents are dispensed.

[S.S.S.R., J.] [S.S.Y., J.]

02.02.2024

Index : Yes / No
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