



2024:DHC:4059



\$~21

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 16.05.2024

+ W.P.(C) 9614/2023 & CM APPL. 36824/2023

MINTA ELIZABETH VARGHESE Petitioner

versus

FOOD SAFETY AND STANDARDS AUTHORITY
OF INDIA AND ANR. Respondents**Advocates who appeared in this case:**

For the Petitioner : Mr. Abhimanyu Walia, Advocate

For the Respondent : Mr. Rakesh Choudhary and Ms.
Tanvi, Advocates for R-1Mr. Ghanshyam Misra, SPC with Mr.
Vivek Nagar, G.P. and Mr. Mohit Kr.
Auluck, Advocates for R-2**CORAM:**
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**J U D G M E N T****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]**

1. This is a writ petition under Article 226 of the Constitution of India, 1950, seeking *inter alia* the following reliefs:-

(a) Issue a Writ Order or Direction for quashing and setting aside of the Termination Order dated 13.06.2023 issued by the Respondent No. 1 whereby the Respondent No.1, in an arbitrary, erroneous and discriminatory manner, terminated



the services of the Petitioner without considering that the petitioner already had the requisite educational qualifications for the post of Central Food Safety Officer; AND

(b) Issue a Writ Order or Direction to the Respondent No. 1 to re-instate the Petitioner in the services of the Respondent No. 1 to the post of Central Food Safety Officer; AND

(c) Issue a Writ Order or Direction to the Respondent No. 1 to award the Petitioner and grant the seniority from the date of her appointment and to continue granting the benefits accrued in the post of Central Food Safety Officer; AND

(d) To expunge from the record of the Petitioner the Termination Order dated 13.06.2023 and the same shall not come in the way of seniority and promotions and benefits.”

2. Learned counsel appearing for the petitioner submits that despite the petitioner being fully qualified for the post of Central Food Safety Officer with respondent FSSAI, only on the ground that the last date of eligibility as per the Advertisement No.DR-02/2019 was 25.04.2019, however the qualification of the petitioner i.e. Degree of Bachelor of Veterinary Science and Animal Husbandry was granted to her only on 29.04.2019. Since the acquisition of the essential qualifications was beyond the cut off date specified in the advertisement, the petitioner was found unqualified for the said post. He submits that it is not disputed that on the same document, the petitioner was inducted into services as a Central Food Safety Officer and had served for two years before the Show Cause Notice was issued.

3. Learned counsel for the petitioner has shown various documents, particularly the transcript at page 30 and OGPA list at page 31 which



shows that the petitioner had obtained very high marks in her Degree Programme of Bachelor of Veterinary Science and Animal Husbandry. List of declaration of OGPA indicates that the petitioner had obtained an OGPA score of 8.541 which appears to be the highest in the list.

4. Learned counsel for the petitioner draws attention of this Court to the Provisional Certificate dated 27.05.2019 according to which the petitioner had passed the Professional Examination of BVSc & AH Programme and had completed the course in the April, 2019. Learned counsel also drew attention of this Court to the Certificate of Completion of Internship dated 06.05.2019 issued by the College of Veterinary and Animal Sciences, Pookode, Kerala which certified that the petitioner had completed her Compulsory Rotating Internship Programme of six months between 10.10.2018 to 07.04.2019. Learned counsel submits that this document along with the Provisional Certificate would indicate that the petitioner as on 25.04.2019 was fully qualified for the post of CFSO. He submits that overlooking the said documents, the respondent had issued a Show Cause Notice dated 16.05.2023 putting the petitioner to notice as to why her employment be not cancelled for lack of essential qualification as on 25.04.2019.

5. Learned counsel for the petitioner had also drawn attention of this Court to page 78 (Annexure P-11) which is a handwritten undertaking given by the petitioner dated 06.07.2021 whereby the petitioner had given relevant information at the time of document verification to the respondent indicating the correct details of her eligibility criteria.

6. The petitioner also had submitted a detailed reply dated 19.05.2023 to the Show Cause Notice. He submits that without considering the said



2024:DHC:4059



reply, by the impugned order dated 13.06.2023, the petitioner's services were terminated.

7. *Per contra*, learned counsel appearing for the respondent drew attention of this Court to the letter dated 22.02.2023 issued by the Kerala Veterinary and Animal Sciences University which categorically indicated that the petitioner had successfully completed her course requirements only on 29.04.2019. This situation can also be ascertained from the Notification dated 21.05.2019 issued by the Kerala Veterinary and Animal Sciences University which specifically mentions that the Academic Year 2018-19 for the BVSc & AH Degree Programme terminated on 29.04.2019. Having regard thereto, learned counsel submits that the respondent had no choice other than to issue a Show Cause Notice accordingly. Learned counsel submits that on consideration of reply to the said Show Cause Notice, the impugned order, after evaluating the entire facts of the case, was passed terminating the services of the petitioner.

8. This Court has perused all the documents on record as also the impugned termination letter dated 13.06.2023.

9. Though on the face of it, may appear that the petitioner may have not completed her Degree Programme of Bachelor of Veterinary Science and Animal Husbandry as on the cut off date i.e. 25.04.2019, however, the documents annexed to the present petition do indicate to the contrary. The Provisional Certificate placed on record categorically reflected the completion of such Programme in April, 2019. This Court has also considered the Certificate of Completion of Internship dated 06.05.2019 issued by the College of Veterinary and Animal Sciences, Pookode,



Kerala which certified that the petitioner had completed her Compulsory Rotating Internship Programme of six months between 10.10.2018 to 07.04.2019. In the opinion of this Court, these and other documents annexed to the present writ petition, would be relevant for consideration. Particularly when the petitioner was already inducted in services on the basis of the very same documents. Due credibility ought to have been given to such documents which emanated from the University where she completed her BVSc & AH Programme.

10. Moreover, on a closer scrutiny, it would appear that it was only the internship which got completed on 07.04.2019 and not the actual course. The final year written examinations are stated to have been held in 2018 itself in which she successfully secured an OGPA score of 8.541.

11. From perusal of the impugned termination letter, it is clear that none of these documents or the fact situation has been considered by the Competent Authority. In that view of the matter, since the Competent Authority did not consider these documents, it is deemed appropriate to direct it to treat the present writ petition as a representation and dispose of the same in accordance with law.

12. The writ petition along with the documents annexed thereto shall be considered as a representation, giving due opportunity of personal hearing to the petitioner. The date, time and venue for such hearing shall be communicated to the petitioner well in advance. It has been given to understand that the petitioner is an ordinary resident of Kerala. This said aspect too shall be taken into consideration by the Competent Authority while giving a notice for hearing. The petitioner may also submit further documents in support of her contentions.



2024:DHC:4059



13. The said representation shall be disposed of within a period of six weeks from today. Needless to say that a speaking order be passed on the said representation and the same be communicated to the petitioner within one week thereafter.

14. The present writ petition is disposed of in above terms.

TUSHAR RAO GEDELA, J

MAY 16, 2024

ns