



W.A.(MD)No.1553 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.1553 of 2019
and
C.M.P.(MD)Nos.12371 and 12372 of 2019**

P.Kannan

... Appellant

Vs.

1.District Employment Officer,
Thoothukudi District,
Thoothukudi.

2.The Director / Commissioner,
Animal Welfare and Husbandry Department,
Chennai - 600 006.

3.The State of Tamil Nadu,
Rep by Secretary to Government,
Department of Animal Welfare and Husbandry,
Fort St.George, Chennai - 9.

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.19147 of 2015 dated 17.07.2019 on the file of this Court.



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For Appellant : Mr.C.Dhanaseelan

For Respondents : Mr.A.Kannan,
Addl. Government Pleader.

JUDGMENT
(By G.R.SWAMINATHAN, J.)

The appellant herein filed W.P.(MD)No.19147 of 2015 seeking appointment as Veterinary Livestock Inspector. The said writ petition was taken up along with few other writ petitions and dismissed by a common order dated 17.07.2019 by the learned Single Judge. Aggrieved by the same, this writ appeal has been filed.

2.The appellant herein is a degree holder. He had registered himself with the district employment exchange in the year 2001. In the year 2012, the Director / Commissioner, Animal Husbandry and Veterinary Department, Chennai called for names of eligible candidates from the employment exchange for appointment to the post of Veterinary Livestock Inspector. The minimum educational qualification required for the post was a pass in higher secondary and the maximum age limit for

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the said post for candidates belonging to backward classes was stipulated as 32 years.

3.The writ petitioner belongs to a backward class community. However, in view of his possessing degree, Rule 12(d) of Tamil Nadu State and Subordinate Services Rules would come to his rescue and the upper age limit was not applicable. Unfortunately, this aspect of the matter was not taken note by the district employment exchange, Thoothukudi and the appellant was omitted to be sponsored for appointment. Aggrieved by said omission, the appellant filed W.P.(MD)No.8113 of 2012 for directing the District Employment Officer, Thoothukudi to sponsor his name. The writ petition was disposed of on 18.06.2012 in the following terms:-

“In view of the limited prayer that has been sought for by the petitioner herein, I direct the first respondent to sponsor the name of the petitioner to the post of Veterinary Livestock Inspector, if the petitioner stands in the queue and if the petitioner is eligible for the same. If the name of the petitioner has been sponsored, the second respondent is directed to consider the claim of the petitioner for the post of Veterinary Livestock Inspector.”



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4.Since the cut off date for sponsoring was 30.07.1986 and the appellant had registered himself only on 14.12.1993, probably, the District Employment Officer was not in a position to sponsor the name of the writ petitioner. In any event, no further action was taken pursuant to the direction given in W.P.(MD)No.8113 of 2012. Hence, the appellant herein filed W.P.(MD)No. 19147 of 2015. As already mentioned, the writ petition was dismissed and assailing the said order, this writ appeal has been filed.

5.It is seen that challenging the recruitment process, one Mathi filed W.P.(MD)No.3296 of 2013. A learned Single Judge vide order 29.04.2015 allowed the writ petition in the following terms:-

“10. Therefore, settled legal proposition that no person can be appointed even on a temporary or ad hoc basis without inviting applications from all eligible candidates. If any appointment is made by merely inviting names from the employment exchange or putting a note on the notice board etc. that will not meet the requirement of Articles 14 and 16 of the Constitution. Such a course violates the mandates of Articles 14



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and 16 of the Constitution of India as it deprives the candidates, who are eligible for the post from being considered. A person employed in violation of these provisions is not entitled to any relief including salary. For a valid and legal appointment mandatory compliance with the said constitutional requirement is to be fulfilled. The equality clause enshrined in Article 16 requires that every such appointment be made by an open advertisement as to enable all eligible persons to compete on merit

11. However, in the present case on hand, it is seen that there is no whisper as to whether applications were invited from all eligible candidates, besides calling names from the Employment Exchange. The counter merely states that due to the petitioner's over age, his name was not sponsored. The stand of the respondent would have been justified, in case of fulfillment of statutory requirement of wide publication. It is also relevant to cite a judgment of the Hon'ble Supreme Court in the case of Renu and others vs. District & Sessions Judge, Tis Hazari and another, reported in 2014 (1) LLN 545 (SC) vide which the Hon'ble Supreme Court gave a direction to all the High Courts to comply with the purport of Articles 14 and 16 of the Constitution of India, while filling up of any vacant post either in the High Court or in the Subordinate Courts throughout India. In the said judgment parameters for filling up the posts were also given by holding that advertisement in at least two newspapers and one of which must be in vernacular language having wide



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circulation in the respective State is mandatory, apart from calling for a list from the local Employment Exchange and any selection made without advertisement as prescribed, shall be void ab initio and would remain unenforceable and inexecutable except the appointment on compassionate grounds, as per the Rules applicable

12. Thus, the legal proposition is very clear in matters relating to appointment and there can be no compromise or relaxation is the process of selection except in the case of compassionate ground. Therefore, considering the overall circumstances and also the various decisions rendered by the Hon'ble Supreme Court, this Court is of the view that the Government Order in G.O.Ms.No.10 Animal Husbandry Dairying and Fisheries (AH 1) Department dated 27.01.2012 is while declaring as illegal, unsustainable and liable to be get aside and the writ petition is allowed. Since the first respondent has admitted that the petitioner was well within the age in H.Sc. Secondary, I direct the respondents 12 to consider the candidature of the petitioner with period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.”

Aggrieved by the same, the State filed W.A.(MD)No.1114 of 2015. The Hon'ble Division Bench vide order dated 03.11.2015 disposed of the writ appeal in the following terms:-



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“8.Mr.K.Chellapandian, learned Additional Advocate General appearing for the appellants submits that after the judgment of the Learned Judge, the Government had started following the practice of inviting the list of candidates from the Employment Exchange and also making paper publication inviting applications from the open market. The Government has no difficulty in following the same practice in future. But only insofar as the recruitment that took place in 2012, 350 persons cannot now be sent out.

9.Considering the limited nature of the grievance and also considering the fact that there was no interim stay of G.O.Ms.No.10, Animal Husbandry and Fisheries (AH.1) Department, dated 27.01.2012 during the pendency of the writ petition, we are of the view that the order of the learned Judge could be modified to a limited extent so that persons who are already appointed pursuant to the order impugned in the writ petition need not be disturbed as they were also not parties before the learned Judge.

10. In view of the above, the writ appeal is disposed of confirming the order of the learned Judge on principle but clarifying that those appointed pursuant to G.O.Ms.No.10, Animal Husbandry and Fisheries (AH.1) Department, dated 27.01.2012 shall not be disturbed. No costs. Consequently, M.P.(MD)No.2 of 2015 is closed.”



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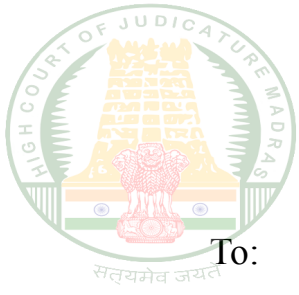
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6.The resultant effect of the aforesaid order is that the recruitment stood quashed but for the persons who had already been appointed pursuant to the same. In other words, protection was given only for the persons who had already been appointed. Admittedly, the appellant is a left out person. In view of the order made in W.P.(MD)No.3296 of 2013, which was confirmed in principle by the Hon'ble Division Bench in W.A.(MD)No.1114 of 2015, it is not possible to grant any relief to the appellant herein.

7.In this view of the matter, we decline to interfere with the order of the learned Single Judge and the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

**(G.R.S. J.,) & (K.R.S. J.,)
22.08.2025**

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:

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Thoothukudi District,
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- 2.The Director / Commissioner,
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- 3.The Secretary to Government,
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