

**Vanitha Vs. the Director of Animal Husbandry and Veterinary Services  
Directorate of Animal Husbandry and Veterinary Services Anna Salai  
Teynampet and Another**

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**Court :** Chennai Madurai

**Decided On :** Sep-12-2012

**Judge :** Vinod K. Sharma

**Appeal No. :** W.P.(MD) Nos.1666 of 2012, 2093 of 2012, 1646 of 2012, 374 of 2012 & 375 of 2012 & M.P.(MD)Nos.1,1,1,2,3,1 and 1 of 2012

**Appellant :** Vanitha

**Respondent :** The Director of Animal Husbandry and Veterinary Services  
Directorate of Animal Husbandry and Veterinary Services Anna Salai Teynampet  
and Another

**Advocate for Pet/Ap. :** For the Petitioner: R. Sundar, Ms. E. Udhaya, G. Thalaimutharasu, A. John Vincent, Advocates. For the Respondents: Ms. S. Bharathi, Government Advocate.

**Judgement :**

(Prayer: W.P.(MD)NO.1666 of 2012:- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 2nd respondent to sponsor the petitioner's name (Registration Number MDP

2006F00000105) to first respondent office to the post of Veterinary Assistant Surgeon within a stipulated period as may be fixed by this Hon ble Court.)

### Common Order

1. This common order shall dispose of W.P.(MD)Nos.1666, 2093, 1646, 374 and 375 of 2012, as common question of law and facts are involved.

2. For the sake of brevity, the facts are taken from W.P.(MD)No.1666 of 2012.

3. In all these writ petitions, the petitioners pray for issuance of Writ, in the nature of Mandamus, to direct the second respondent to sponsor the petitioners' name, to the first respondent, for being considered, for appointment to the post of Veterinary Assistant Surgeon, within stipulated period, as may be fixed by this Court.

4. But, keeping in view the fact, that during the pendency of these writ petitions, the respondents have proceeded, and filled up the vacancies, the question on admitted facts, for determination by this Court will be as to whether the process of selection by the respondents, for appointing 585 Veterinary Assistant Surgeon can be sustained in law.

5. The Government of Tamil Nadu, vide G.O.Ms.No.78 Animal Husbandry, Dairying and Fisheries (AH2) Department, dated 29.07.2011, had taken a decision, to distribute 60,000 Milch Cows, to the needy beneficiaries and Distribution of four goats / sheet to 7,00,000 poorest of the poor families living in rural areas free of cost during the period of five years, and also for strengthening the farms of Animal Husbandry Department. A decision was also taken to create additional posts of Assistant Directors in the Animal Husbandry Department, so as to post at least one Assistant Director in every revenue region during 2011 - 2012. It was also decided, to upgrade 385 sub centres to Veterinary Dispensaries, to provide better services.

6. On the recommendations, the Government took the following decisions, vide G.O.Ms.No.137 Animal Husbandry Dairying and Fisheries (AH7) Department dated 14.11.2011:-

3.) The Government after careful examination accepts the proposal of the Director of Animal Husbandry and Veterinary Services and following orders are issued :-

i. Conversion of 200 Upgraded Sub-Centres (vide in G.O. (3D) No.2, Animal Husbandry, Dairying and Fisheries (AH3) Department, dated 25.02.2011) as 200 Rural Veterinary Dispensaries and for upgradation of another 385 Sub-Centres as Rural Veterinary Dispensaries.

ii. Creation of 585 posts (200+385) of Veterinary Assistant Surgeons initially for a period one year temporarily and filling these posts through Employment Exchange under Rule 10 (a) (i) of the General Rule of Tamil Nadu State and Subordinate Services in regular time scale of pay.

iii. Creation of 585 posts (200+385) of Animal Husbandry Assistant initially for a period one year temporarily and be filled up immediately by the concerned appointing authority through Employment Exchange as per Service Rules.

iv. Creation of a Monitoring Cell in the State Headquarters initially for a period one year temporarily. The Staff Pattern is annexed to this Order (Annexure I)

v. To create 99 posts (Assistant Director of Animal Husbandry-11, Superintendent-11, Assistant-11, Junior Assistant-22, Typist-11, Driver-11, Office Assistant-11, Watchman-11) initially for a period one year temporarily for strengthening the existing of Offices Assistant Directors of Animal Husbandry in the Districts and bringing the number of Assistant Directors on par with Revenue Divisional Offices The Staff pattern is annexed to this order. (Annexure II)

vi. The purchase of 11 Vehicles, Medicines, Equipments, Furniture, Office Automation and Diesel etc., for the proposed New Assistant Director of Animal Husbandry Offices.

vii. Sanction of Rs.35.86 Crores (Rupees thirty five crores and eighty six lakhs only) for establishment of above offices as follows:-

Sl.No	Details	Amount
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1.	Upgradation of 585 Sub-centres into Rural Veterinary Dispensaries.	Rs.32,46,58,620/-
2.	Creation of 11 Assistant Directors of Animal Husbandry.	Rs.3,12,13,028/-
3.	Creation of Monitoring Cell at the State Headquarters	Rs.27,51,804/-
Total		Rs.35,86,23,452/- Or Rs. 35.86 Crores

4.) The expenditure sanctioned in para 3 (vii) above shall be debitable to the following Head of Account

“TABLE”

Establishment cost for 11 Assistant Director posts:-

"2403 - 00 - Animal Husbandry - 001 Direction and Administration - I Non-Plan - AC

Establishment of Assistant Directors of Animal Husbandry"

“TABLE”

Cost for Upgrading Sub-centres to Veterinary Dispensaries:-

"2403 - 00 - Animal Husbandry - 101 Direction and Administration - I Non-Plan -AA Veterinary Hospitals and Dispensaries"

“TABLE”

5.) The expenditure sanctioned in para 3 (vii) above is an item of "New Instrument of Service" and the approval of the Legislature will be obtained in due course. Pending approval of Legislature, the expenditure will be initially met from the Contingency Fund. The Director of Animal Husbandry and Veterinary Services

shall apply for the sanction of Contingency Fund advance to Finance [BG I] Department, in the prescribed format along with the copy of this order. The Director of Animal Husbandry and Veterinary Services is also requested to send necessary explanatory notes for including the above expenditure in the Supplementary Estimates 2011-12 to Fin (BG I/AHandF) Department at the appropriate time.

6.) The Director of Animal Husbandry and Veterinary Services is permitted to fill up the 258 vacant posts of Veterinary Assistant Surgeons through the Employment Exchange under Rule 10 (a) (i) of the General Rule of Tamil Nadu State and Subordinate Services in regular time scale of pay.

7.) The Director of Animal Husbandry and Veterinary Services is requested to identify and send the list of 385 Sub-centres for issue of order for upgrading them as Rural Veterinary Dispensaries.

8.) The Director of Animal Husbandry and Veterinary Services is also instructed to fill up the 843 posts of Veterinary Assistant Surgeons (585+258) through Employment Exchange under Rule 10 (a) (i) of the General Rule of Tamil Nadu State and Subordinate Services in regular time scale of pay. The recruitment from the Employment Exchange will be done following the Employment Seniority and in accordance with the Communal roster guidelines. The Director of Animal Husbandry and Veterinary Services may also instructed that before filling up of the posts through Employment Exchange, the candidates in the reserve list / regular list of Tamil Nadu Public Service Commission should be adjusted.

9.) This order issues with the concurrence of Finance Department Vide its U.O.No.59492/CMPC/2011 dated 14.11.2011 and ASL No. 844 [Eight Hundred and Forty Four]

(By Order of the Governor)

GAGand EEP SINGH BEDI,

SECRETARY TO GOVERNMENT."

7. The Rule 10(a)(i)(1) of the Tamil Nadu State and Subordinate Service Rules, which reads as under:-

"10.) Temporary appointments:- a(i) (1) Where it is necessary in the public interest owing to an emergency which has arisen to fill immediately a vacancy in a post borne on the cadre of a service, class or category and there would be undue delay in making such appointment in accordance with these rules and the Special Rules, the appointing authority may temporarily appoint a person, who possesses the qualification prescribed for the post otherwise than in accordance with the said rules.

#(Added Vide G.O.Ms.No.21 P and AR (S) Dept. 23.01.1996 w.e.f. 23.01.1996)

Provided that no appointment @ by direct recruitment under this clause shall be made of any person other than the one sponsored by the Tamil Nadu Public Service Commission from its regular or reserve list of successful candidates to any of the posts with in the purview of the Tamil Nadu Public Service Commission.

@(Added vide G.O.Ms.No.21 Pand AR (S) Dept. 23.01.1996 w.e.f. 23.01.1996)

Second Proviso omitted vide G.O.Ms.No.146 Pand AR(S) Dept. dated 13.09.2006 w.e.f. 16.08.1982.

Provided further that appointment by direct recruitment under this clause (1) in respect of posts within the purview of Tamil Nadu Public Service Commission shall be made, only where new posts with new qualifications are created temporarily and where the Tamil Nadu Public Service Commission does not have a regular or reserve list of successful candidates for sponsoring.

\*\*Substituted vide G.O.Ms.No.146 Pand AR(S) Dept. dated 13.09.2006 w.e.f. 16.8.82

Provided also that notwithstanding anything contained in the first proviso, the appointing authority shall make temporary appointment by direct recruitment through the Employment Exchange, for the posts of Typist and Steno-Typist (Grade III) in the Tamil Nadu Ministerial Service and for the post of Typist in Tamil

Nadu Secretariat Service, as a one time measure to overcome the difficulty in filling up the vacancies for the above posts due to the ban on direct recruitment that existed between the 29th November 2001 and the 7<sup>th</sup> February 2006".

8. A reading of the rule shows, that decision to fill up posts of Veterinary Assistant Surgeon through employment exchange is outcome of non-application of mind, as under Rule 10(a)(i)(1) of the Tamil Nadu State and Subordinate Service Rules, the post of Veterinary Assistant Surgeon is not covered. Even otherwise, temporary appointments stipulated therein is only as one time measure, to overcome the difficulty in filling the vacancies for the posts of Typist and Steno-Typists in the Tamil Nadu Ministerial Service, which are existing are not those which are created or to be created in future.

9. At the time of argument, reference was also made to Rule 10-A of the Tamil Nadu State and Subordinate Service Rules, which reads as under:-

"\*10-A. Recruitment to posts, which are outside the purview of the Tamil Nadu Public Service Commission:- (a) Where the posts are outside the purview of the Tamil Nadu Public Service Commission, recruitment shall be made only by calling for names of eligible candidates from the Employment Exchange. In respect of specialised posts for which candidates are not available with the Employment Exchange, the appointing authority shall get a certificate of a non-availability from the Employment Exchange, and call for application from eligible candidates by advertising the posts in prominent daily newspapers giving the number of vacancies and indicating the qualifications, etc. \*Inserted in G.O.Ms.No.605, P and AR (Per.S) dt., 03.06.1980 w.e.f. 03.06.1980

#(Provided that this sub-rule shall not apply in the case of appointments of dependants of Government Servants who die in harness, or the Government servants who retire from service on medical invalidation before obtaining the age of @ fifty three years).

#Added in G.O.Ms.No.354 P and AR Dt.20.06.1989 w.e.f. 03.06.1980

@Substituted vide G.O.Ms.No.1 Pand AR(S) Dept. dated 02.01.2002.

(b) The candidates to be appointed shall be selected on the basis of merit by the appointing authority, or by an officer designated by the appointing authority or by a Committee of Officers not exceeding three duly constituted by the appointing authority, subject to the rule of reservation of posts wherever applicable after subjecting the candidates to an oral interview and, if necessary, a short written test which can be evaluated in a short time".

10. As already observed above, the question to be decided is "Whether the process adopted by the respondents, for selection of Veterinary Assistant Surgeon can be sustained in law".

11. Before answering the question, it is necessary, to note down the facts of W.P.(MD)No.1666 of 2012.

12. The petitioner completed the Bachelor of Veterinary Science in the year 2006, from the Tamil Nadu Veterinary and Animal Sciences University on 22.12.2006. The petitioner, thereafter, got himself registered, with the second respondent's office at Chennai on 02.01.2006, and had been renewing his registration from time to time.

13. The petitioner in the meantime also acquired the degree of Master of Veterinary Science in the year 2008, and got the Additional Degree also registered with the Employment Exchange.

14. In pursuance to the requisition sent by the State Government, the name of the petitioner was not sponsored, on the ground of non-renewal of registration on the date, when the requisition was submitted, thereby the petitioner has lost a chance to be considered for appointment to public office through eligible and qualified for the post.

15. In W.P.(MD)No.2093 of 2012, the candidature of the petitioner was rejected for want of mentioning of qualification in online Registration Card.

16. The petitioners, in all these writ petitions therefore prayed, for sponsoring of their names, for being considered, for appointment as Veterinary Assistant Surgeon.

17. On the facts referred to above, to consider the question, it is necessary to take note of the Constitutional provisions of settled law:-

Article 309 of the Constitution of India reads as under:-

"309. Recruitment and conditions of service of persons serving the Union or a State:- Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this Article, and any rules so made shall have effect subject to the provisions of any such Act".

18. The Article 162 of the Constitution of India, reads as under:-

"162. Extent of Executive Power of State:- Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws:

Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof".

19. The Government Orders issued by way of instructions to regulate the service conditions, therefore are required to be in consonance with the provisions of the Constitution of India.

20. Articles 14 and 16 of the Constitution of India reads as under:-

"14.) Equality before law:- The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

16.) Equality of opportunity in matters of public employment:- (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union Territory prior to such employment or appointment.

(4) Nothing in this Article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4-A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which in the opinion of the State are not adequately represented in the services under the State.

(4-B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4-A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent

reservation on total number of vacancies of that year.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination".

21. A reading of Article 16 of the Constitution of India, reproduced above would show, that it is the constitutional duty of the State, to give equal opportunity to all the citizens in the matter relating to employment or appointment to any office under the State.

22. The Honourable Supreme Court, while considering the question as to whether the public post can be filled only by requisition from the Employment Exchange, in STATE OF BIHAR ..VS.. UPENDRA NARAYAN SINGH and OTHERS (2011(1) SCT 208), declared the law as under:

"27.) For ensuring that equality of opportunity in matters relating to employment becomes a reality for all, Parliament enacted the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 (for short `the 1959 Act'). Section 4 of that Act casts a duty on the employer in every establishment in public sector in the State or a part thereof to notify every vacancy to the employment exchange before filling up the same.

28) In Union of India and others v. N. Hargopal and others [(1987) 3 SCC 308], a two-Judge Bench of this Court considered the question whether persons not sponsored by the employment exchange could be appointed to the existing vacancies. The High Court of andhra Pradesh had ruled that the provisions of 1959 Act are not applicable to Government establishment; that the Act does not cast duty either on the public sector establishment or on the private sector establishment to make the appointments from among candidates sponsored by the employment exchanges only, and that instructions issued by the Government of India that candidates sponsored by the employment exchanges alone should be appointed are contrary to Articles 14 and 16. This Court referred to Sections 3 and 4 of the 1959 Act, adverted to the reasons enumerated in the counter-affidavit filed

on behalf of the Union of India before the High Court to justify the appointments only from among the candidates sponsored by the employment exchange and held:

"9)..... The object of recruitment to any service or post is to secure the most suitable person who answers the demands of the requirements of the job. In the case of public employment, it is necessary to eliminate arbitrariness and favouritism and introduce uniformity of standards and orderliness in the matter of employment. There has to be an element of procedural fairness in recruitment. If a public employer chooses to receive applications for employment where and when he pleases, and chooses to make appointments as he likes, a grave element of arbitrariness is certainly introduced. This must necessarily be avoided if Articles 14 and 16 have to be given any meaning. We, therefore, consider that insistence on recruitment through Employment Exchanges advances rather than restricts the rights guaranteed by Articles 14 and 16 of the Constitution. The submission that Employment Exchanges do not reach everywhere applies equally to whatever method of advertising vacancies is adopted. Advertisement in the daily press, for example, is also equally ineffective as it does not reach everyone desiring employment. In the absence of a better method of recruitment, we think that any restriction that employment in government departments should be through the medium of employment exchanges does not offend Articles 14 and 16 of the Constitution.

29.) In *Excise Superintendent, Malkapatnam, Krishna District, A.P. v. K.B.N. Visweshwara Rao and others* [(1996) 6 SCC 216], a three-Judge Bench while reiterating that the requisitioning authority/establishment must send intimation to the employment exchange and the latter should sponsor the names of candidates, observed:

"..... It is common knowledge that many a candidate is unable to have the names sponsored, though their names are either registered or are waiting to be registered in the employment exchange, with the result that the choice of selection is restricted to only such of the candidates whose names come to be sponsored by the employment exchange. Under these circumstances, many a deserving

candidate is deprived of the right to be considered for appointment to a post under the State. Better view appears to be that it should be mandatory for the requisitioning authority/establishment to intimate the employment exchange, and employment exchange should sponsor the names of the candidates to the requisitioning departments for selection strictly according to seniority and reservation, as per requisition. In addition, the appropriate department or undertaking or establishment should call for the names by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television and employment news bulletins; and then consider the cases of all the candidates who have applied. If this procedure is adopted, fair play would be subserved. The equality of opportunity in the matter of employment would be available to all eligible candidates.

30.)The same principle was reiterated in *Arun Kumar Nayak v. Union of India and others* [(2006) 8 SCC 111] in the following words:

"9) This Court in *Visweshwara Rao*, therefore, held that intimation to the employment exchange about the vacancy and candidates sponsored from the employment exchange is mandatory. This Court also held that in addition and consistent with the principle of fair play, justice and equal opportunity, the appropriate department or establishment should also call for the names by publication in the newspapers having wider circulation, announcement on radio, television and employment news bulletins and consider all the candidates who have applied. This view was taken to afford equal opportunity to all the eligible candidates in the matter of employment. The rationale behind such direction is also consistent with the sound public policy that wider the opportunity of the notice of vacancy by wider publication in the newspapers, radio, television and employment news bulletin, the better candidates with better qualifications are attracted, so that adequate choices are made available and the best candidates would be selected and appointed to subserve the public interest better.

31.)The ratio of the above noted three judgments is that in terms of Section 4 of the 1959 Act, every public employer is duty bound to notify the vacancies to the concerned employment exchange so as to enable it to sponsor the names of

eligible candidates and also advertise the same in the newspapers having wider circulation, employment news bulletins, get announcement made on radio and television and consider all eligible candidates whose names may be forwarded by the concerned employment exchange and/or who may apply pursuant to the advertisement published in the newspapers or announcements made on radio/television.

32.) Notwithstanding the basic mandate of Article 16 that there shall be equality of opportunity for all citizens in matters relating to employment for appointment to any office under the State, the spoil system which prevailed in America in 17th and 18th centuries has spread its tentacles in various segments of public employment apparatus and a huge illegal employment market has developed in the country adversely affecting the legal and constitutional rights of lakhs of meritorious members of younger generation of the country who are forced to seek intervention of the court and wait for justice for years together."

23. This view is again reiterated in STATE OF ORISSA and ANOTHER..VS. MAMATA MOHANTY (2011 (2) S.C.T. 718) laying down as under:

"APPOINTMENT/EMPLOYMENT WITHOUT ADVERTISEMENT:

18.) At one time this Court had been of the view that calling the names from Employment Exchange would curb to certain extent the menace of nepotism and corruption in public employment. But, later on, came to the conclusion that some appropriate method consistent with the requirements of Article 16 should be followed. In other words there must be a notice published in the appropriate manner calling for applications and all those who apply in response thereto should be considered fairly. Even if the names of candidates are requisitioned from Employment Exchange, in addition thereto it is mandatory on the part of the employer to invite applications from all 18 eligible candidates from the open market by advertising the vacancies in newspapers having wide circulation or by announcement in Radio and Television as merely calling the names from the Employment Exchange does not meet the requirement of the said Article of the Constitution. (Vide: Delhi Development Horticulture Employees' Union v. Delhi Administration, Delhi and Ors., AIR 1992 SC 789; State of Haryana and Ors. v.

Piara Singh and Ors., AIR 1992 SC 2130; Excise Superintendent Malkapatnam, Krishna District, A.P. v. K.B.N. Visweshwara Rao and Ors., (1996) 6 SCC 216; Arun Tewari and Ors. v. Zila Mansavi Shikshak Sangh and Ors., AIR 1998 SC 331; Binod Kumar Gupta and Ors. v. Ram Ashray Mahoto and Ors., AIR 2005 SC 2103; National Fertilizers Ltd. and Ors. v. Somvir Singh, AIR 2006 SC 2319; Telecom District Manager and Ors. v. Keshab Deb, (2008) 8 SCC 402; State of Bihar v. Upendra Narayan Singh and Ors., (2009) 5 SCC 65; and State of Madhya Pradesh and Anr. v. Mohd. Ibrahim, (2009) 15 SCC 214).

19.) Therefore, it is a 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 19 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 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 of 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."

24. This Court in P.M.MALATHI ..VS.. STATE OF TAMIL NADU and OTHERS (2012 (3) M.L.J. 669) also held that it is not permissible for the State to fill up the posts only by calling names from the employment exchange, and thereby denying right of consideration to other eligible persons who are not registered with employment exchange to be considered for appointment.

25. The Judgments of the Supreme Court is declaration of law and is binding on all.

26. Therefore, any appointment merely by inviting names from the Employment Exchange does not meet the requirement of Articles 14 and 16 of the Constitution of India, as it violates the mandate of Articles 14 and 16 of the Constitution of India, and result in depriving of eligible candidates having the requisite

qualification for the post from being considered.

27. The impugned part of the Government Order in G.O.Ms.No.137 Animal Husbandry Dairying and Fisheries (AH7) Department dated 14.11.2011, directing the posts to be filled up only through Employment Exchange under Rule 10(a)(i) of the General Rule of Tamil Nadu State and Subordinate Services is ultra vires the Constitution being hit by Articles 14 and 16 of the Constitution of India. The Government order, therefore, cannot stand the test of constitutional mandate of equality as enshrined in the fundamental rights guaranteed under the Constitution of India.

28. The G.O.Ms.No.137 Animal Husbandry Dairying and Fisheries (AH7) Department dated 14.11.2011, is otherwise also arbitrary as Rule 10(a)(i) of the General Rule of Tamil Nadu State and Subordinate Services does not permit the filling up newly created posts through Employment Exchanges. Rule 10-A of the General Rule of Tamil Nadu State and Subordinate Services is ultra vires the Constitution of India, being violative of Articles 14 and 16 of the Constitution of India, as it stipulates filling up of the posts through Employment Exchange, without wide publicity so as to give opportunity to all eligible person to compete for selection on merit.

29. For the reasons stated, all these writ petitions are allowed and selection of Veterinary Assistant Surgeon is quashed. A Writ, in the nature of Mandamus is issued, directing the respondents to fill up the posts of Veterinary Assistant Surgeon, by following the Constitutional Mandate, by advertising the posts in the newspapers and other media, besides calling for names from Employment Exchange and thereafter, select the candidates on merits by fixing the criteria of selection as per decision of State Government.

No costs.

Consequently, the connected M.P.(MD)Nos.1,1,1,2,3,1 and 1 of 2012 are closed.

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