

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated Wednesday the 3rd day of June Two Thousand And Twenty

PRESENT:

THE HON'BLE MR. P. MADHAVAN, MEMBER(J)
THE HON'BLE MR. T. JACOB, MEMBER(A)

O.A.310/1107/2017

P. Danaraj, S/o. G. Pakkrisamy,
Aged about 44 years,
Employed as 'Fieldman',
Dept of Animal Husbandry & Animal Welfare,
Karaikal.
Residing at
No.43, Thittacherry Road,
Karaikal, Puducherry Ut.

.....Applicant

(By Advocate: M/s. M. Gnanasekar)

Vs.

Union of India Rep. by
Director,
Dept. of Animal Husbandry & Animal Welfare,
Puducherry.

.....Respondent.

(By Advocate: M/s. R. Syed Mustafa)

O R D E R

(Pronounced by Hon'ble Mr. P. Madhavan, Member(J))

This is an OA filed seeking following relief:-

"To set aside the order dated 05.05.2017 passed by the respondent in No. 827DAH&AW/Estt/A2/2017-18/466 and consequently to direct the respondent to promote the applicant as Assistant Veterinarian on completion of 12 years of service as per Recruitment Rules, 2005 and give him all consequential monetary and other service benefits."

2. The facts leading to this case can be summarized as follows:-

The applicant is working as a 'Fieldman' in the Animal Husbandry Department in Puducherry. He was appointed on compassionate ground on 14.3.2000. When he was appointed, 'Fieldman' had a promotional avenue to become 'Field Assistant' as per Recruitment Rules of 1996. The Recruitment Rules (R.R.) were amended in 2005 after restructuring 'Livestock Assistant' and 'Livestock Supervisor' into a single post as 'Assistant Veterinarian'. A higher scale was given to the said post. Before the restructuring, the minimum qualification for promotees was only SSLC. The minimum service required was increased to 12 years now. As per the R.R. of 2005, staff in the grade of

attendant was also considered after getting training. The respondents did not send him for training and he was not considered for promotion after completion of six years of service (old rules). In the year 2000-2001, 4 attendants were given promotion as 'Livestock Assistant' giving service relaxation.

3. According to the applicant, he gave representations on 17.2.2014, 08.07.2014 and 01.02.2016 for giving promotion to him after relaxation in qualification etc as per 1996 rules. There was no response from respondents. He then filed OA.270/2017 seeking a direction to consider his name for promotion since he has now completed 12 years of service. This Tribunal thereupon directed the respondents to consider his representations and pass a speaking order. The respondents passed a speaking order rejecting the claim by order dated 5.5.2017 which is impugned in this case. Hence, he filed this OA to quash the impugned order and for promoting him.

4. The respondents appeared and filed a reply rejecting the arguments raised. According to them as per order of the Govt. of Puducherry, there had taken place a cadre restructuring for implementation of the revised pay scales as per Central Civil Services (Revised Pay) Rules 1997. As per Part B-I Schedule, the Assistant Veterinarian possessing B.Sc. Degree with pre-

revised scale Rs.1200-2040/- or Rs. 1400-2300/- are eligible for pay scale of Rs. 5000-8000/-. In the Animal Husbandry Dept, there existed two technical posts- 'Livestock Assistant' and 'Livestock Supervisor' in scale Rs. 4000-6000/- and Rs. 4500-7000/- respectively. As per CCS (RP) Rules these two categories are eligible for the higher pay scale of Rs. 5000-8000/- provided the essential qualification of B.Sc. degree is there. So the department took steps to restructure the cadre by amalgamating these two posts to "Asst. Veterinarian" and Revised the R.R. On 08.09.2005 the new R.R. was notified (Aneexure -R5) and as per the said rules, a degree in B.Sc. Biological Science is required for the post of 'Asst. Veterinarian'. According to the respondents, after the VIth pay Commission report, the post of 'Asst. Veterinarian' has become 'Group B' and now any amendment to rules requires the concurrence of UPSC also.

5. The main contention raised by the counsel for the applicant is that when the applicant was appointed as 'Fieldman' under 1996 rules, the post of 'Livestock Assistant' was a promotional avenue for 'Fieldman' having six years of experience and training. But thereafter, the Recruitment Rules was amended in 2005 and the 'qualification required for post was 12 years of experience as 'Fieldman' and degree. Even though he had

sought for relaxation and promotion, the respondents are not considering it. Now, the applicant is having 12 years of experience also as per 2005 rules.

6. On the other-hand, the counsel for the respondent would contend that the post of 'Livestock Assistant' and 'Livestock Supervisor' were brought under the post of 'Assistant Veterinarian'. The R.R.s were amended and the minimum qualification required is fixed as B.Sc. degree in Biological Science with 12 years of experience for promotes also. The applicant is not qualified for appointment to the post of 'Asst. Veterinarian'. The respondents had invited our attention to the decision in the case of ***R. Kumaravel & 14 Ors. Vs. Secretary UPSC and Ors. in O.A. 1123/2010 dated 06.12.2013*** which was confirmed by the ***Hon'ble Madras High Court in the order in W.P. No. 11735/2014 dated 10.02.2017.***

7. The counsel for the applicant would contend that the said decision has no application to his case. On a reading of the said decision, we find that the said case was filed by attendants in the Animal Husbandry department after the amalgamation of post of 'Livestock Assistant' and 'Livestock Supervisor' into 'Assistant Veterinarian' under Puducherry government. According to the applicants therein, the attendants had a

promotional avenue to the post of 'Veterinary Field Assistant (redesigned as 'Livestock Assistant') after 12 years of service. After the amendment of RR in 2005, the prospects of promotion are denied to the applicants. So the applicants sought for incorporating them also by amending the rules. This Tribunal held that the question of including the category of Attendants to the feeder category of Asst. Veterinary Assistant etc is a policy matter to be decided by government and Tribunal has no role. The said order was challenged before the Hon'ble Madras High Court and Court dismissed the W.P. extracting the principles to be followed laid down by the Hon'ble Apex Court in '**P.U. Joshi and Ors. Vs. Accountant General, Ahmedabad and ors. 2003(2) SCC 632**'. The extent of judicial review in matters relating to conditions of service.

"The Supreme Court said:-

"10.Questions relating to the constitution pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria

or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.”

8. It is clearly laid down that no employee can insist that rules governing conditions of service should be forever same. In this case, the post of Assistant Veterinarian has become Group B after VIth CPC and the minimum qualification fixed is B.Sc. degree. So, the claim put forward by the applicant in this OA has no merit. We cannot find any illegality or arbitrariness in the

impugned order dated 5.5.2017 (Annexure -19). Relaxation of any of the conditions depend upon the policy of the government and on the exigencies of service. Tribunal has no role to play in it.

9. Accordingly, we find the OA lacking in merit and it will stand dismissed. No costs.

(T. JACOB)
MEMBER(A)

Asvs

(P. MADHAVAN)
MEMBER(J)

03.06.2020