

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

(12)

OA 1864/2000

New Delhi, this the 27th day of August, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)  
Hon'ble Shri Govindan S. Tampli, Member (A)

1. Dr. M.M.M.Beg  
S/o Late Shri M.Z.Beg.  
811, Krishi Aptts. D-Block  
Vikas Puri, New Delhi.

2. Dr. B.R.Acharyya  
S/o Late (Dr.) B.R.Acharyya  
146/9, Sector-I, M.B.Road  
Pushp Vihar, New Delhi.

..Applicants

(By Advocate Shri Deepak Verma)

V E R S U S

Union of India : through

1. Secretary  
UPSC  
Dholpur House  
Shahjehan Road  
New Delhi.

2. The Secretary  
Dept. of Animal Husbandry & Dairying  
Ministry of Agriculture  
Krishi Bhawan, New Delhi.

3. Shri Ratan Singh  
Asstt. Commissioner (Sheep)  
Room No. 575A  
Krishi Bhawan  
New Delhi.

..Respondents

(By Advocates Shri Rajeev Bansal and  
Shri Yogesh Sharma)

O R D E R

By Hon'ble Shri Govindan S. Tampli,

Dr. M.M.M.Beg and Dr. B.R.Acharyya challenge  
the selection and appointment as Asstt. Commissioner  
(Sheep) of Shri Rattan Singh respondent No. 3, as  
not proper and seek that it be quashed and set aside.

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2. Heard Shri Deepak Verma, learned counsel appearing for the applicants, Shri Rajeev Bansal for the respondent-2 and Shri Yogesh Sharma for respondent No.3. U.P.S.C., respondent 1 had not filed any counter. Nor was it represented during the hearing. During the oral submissions Shri Verma, learned counsel indicated that he was not pressing the case of applicant No.1 - Dr. Beg. That leaves only applicant No.2 - Dr. Acharyya.

3. It is pointed out in the application that in terms of relevant Recruitment Rules, essential qualifications for the post of Asstt. Commissioner (Sheep) in the Deptt. of Animal Husbandry and Dairying comprise Degree in Veterinary Science or Animal Husbandry or equivalent, Post Graduate Degree in any branch of Animal Science related to production and five years experience in the field of Sheep and Wool work. Asstt. Commissioner (Sheep) is a veterinary post. Though the respondent No.3 possesses no degree in Veterinary science either at the graduate level or post graduate level, but possesses only degree in Agriculture, he was considered along with the applicant and selected to the post of Asstt. Commissioner (Sheep), which was an act totally de hors the Rules. Inspite of the applicant's representing against the move to consider for promotion to the post of A.C. Sheep the case of respondent No.3, who was not qualified, the official respondents went ahead and appointed him which was contrary to the Recruitment Rules as well, as the directions in the Indian Veterinary Council Act, 1984 (IVC Act). Respondents have violated the provisions of IVC Act, which

control, direct and supervise all the activities of Veterinary and Animal husbandry professionals in the country. This action of the respondents has to be set aside, as as the Asstt. Commissioner (Sheep) was a senior Veterinary post - Group 'A' which could not be filled up by any individual not qualified in the same. Hence this application.

4. Rebutting the pleas made by the applicant(s), the respondents point out that the qualification relating to Master's degree in Animal Science was not to be insisted upon in the case of serving Asstt. Livestock Officers. According to them respondent No.3 who holds the Master's Degree in Agricultural Science, with Animal Husbandry and Dairying Specialisation was originally appointed in 1976 as Sr. Technical Asstt. (live Stock), promoted in 1982 as Asstt. Livestock Officer (ALO) and in 1994 as Asstt. Commissioner (sheep) on ad hoc basis. He has been regularised as Asstt. Commissioner (Sheep) on 20.7.2000. As both the posts of STA & ALO also required qualification in Animal Husbandry/Veterinary Science and as his appointment to those posts were not objected to there was no justification for attempting to assail his present appointment, more so as he has been working in the same post on ad hoc basis from 1994. Respondents have only regularised the ad hoc arrangement which was found to be correct. They further point out that in their organisation no post is specifically defined as Veterinary post or otherwise and all the posts are filled in terms of the Recruitment Rules, which authorised promotion of the respondent. According to them the

Indian Veterinary Act, 1984 are not applicable in the case of M.Sc. Agriculture with Animal Husbandry as specialisation but only in respect of Degrees in the field of Veterinary Science. As the applicant(s) was also considered for the promotion to the post of Asstt. Commissioner (Sheep) along with respondent No.3 but was not found to be eligible he cannot complain against the selection of the respondent -3 . They also state that the insistence with reference to IVC Act and its provisions are not relevant in this case as they are relatable only to degrees in Veterinary Science.

5. On behalf of the respondent No.3 it is submitted that he holds a Degree in Agriculture of which Animal Husbandry was an integral part and post graduation in Agriculture with specialisation in Animal Husbandry and Diarying. This has always been considered equivalent to a degree in Animal Husbandry. Therefore, his selection as Asstt. Commissioner (sheep), was legal and correct. The post of AC(Sheep) related to animal production was not a veterinary post and only those posts relating to animal health are to be considered as Veterinary posts. The respondent No.3 had been earlier selected as STA by the UPSC and thereafter as ALO and therefore it cannot be said that he did not possess the requisite qualification to be promoted as AC (sheep) as alleged by the applicant. Degree/PG Degree in Agriculture with specialisation in Animal Husbandry have always been treated as equivalent to a degree in Animal Husbandry by all concerned. This has been confirmed by the Ministry of Agriculture's d.o.letter

No.540/99-Per.IV dated 15.3.99. In view of the above, there is no justification for holding that his selection as Asstt. Commissioner (Sheep) was in any way irregular or improper.

6. During the personal hearing the learned counsel on behalf of the applicant invited our attention to the provisions of Indian Veterinary Council Act, 1984 with specific reference to Section 30 of the Act as well as the Council's letter dated 18.2.98 addressed to Ministry of Agriculture (Dept. of Animal Husbandry & Dairying) which would make it clear that the respondent No.3 could not have been considered for the post of AC (Sheep) especially as it was a Veterinary post. He also relied upon the decision of the Hon'ble Supreme Court in State of M.P. & Ors. Vs. Shyama Pardhi (AIR 1996 SC 2219), Ravinder Sharma & Anr. Vs. State of Punjab & Ors. (1995)1 SCC 138 and of the Tribunal in J.C. Markandey Vs. UOI & Ors. in OA No.131/HR/99 (1994(2) ATC 352) to show that selection of non-qualified persons to any post can be successfully assailed. On the other hand official respondents reiterate their views made earlier Respondent No.3 states that on account of his possessing equivalent qualification his selection cannot in any way be questioned. The respondents also rely upon the copy of letter dated 26.11.99 wherein it was mentioned that the UPSC had earlier held the applicant to be eligible for promotion to the post of Asstt. Commissioner (Sheep) .

7. We have carefully considered in the rival contentions and the evidence brought on record before us. While the applicants(s) states that the appointment of Respondent No.3 to the post of AC(Sheep), a veterinary post was wrong as he did not possess the qualification and the requisite registration under the Veterinary Council, the respondents plead that the post had not been declared as a veterinary post, and that R-3 had the equivalent qualification which had enabled his appointment and promotion to the feeder cadre, which was approved by the UPSC as well.

8. The post under examination is that of AC(Sheep) in the Ministry of Agriculture (Dept. of Animal Husbandry & Dairying) and it is identified as a veterinary post in terms of Ministry of Agriculture letter No.A.44011/45/88-IV dated 31.5.1989 and therefore all pre-requisites of a veterinary post have to be attached to it. According to the relevant Recruitment Rules notified vide Ministry's letter No.A12028/19/83-Estt.V dated 20/22.4.1987, educational qualification for the post of Asstt. Commissioner (Sheep) by direct recruitment (as well as by promotion) reads as below:

ESSENTIAL:

- i) Degree in Veterinary Science or Animal Husbandry of a recognised University or equivalent;
- ii) Post Graduate degree in any branch of Animal Science related to production;

iii) 5 years experience in the field of

b) Sheep and Wool Work .

It is further provided that qualification are relaxable at the discretion of the UPSC, in case of candidates otherwise well qualified and also that the possession of a Master Degree in any Branch of Animal Science related to production shall not be insisted upon for those persons working in the post of Asstt. Live Stock Officer ~~as~~ a regular basis. Nothing has <sup>e</sup> been brought on record to show that relaxation of any kind has been sought or granted by the UPSC. Obviously therefore the persons applying for the post which is a veterinary post notwithstanding the disclaimer by the respondents - should have had a degree in Veterinary Science or Animal Husbandry of a recognised univesity or its equivalent. It is in this context that the status of Indian Veterinary Council becomes relevant. The Council set up under Indian Veterinary Council Act, 1984, is the body empowered to regulate Veterinary Practice in the country - like Medical Council of India regulating the medical practice and the Bar Council of India regulating the legal practice - by recognising the Veterinary Science and Animal Husbandry qualification, granted by the Universities, registering practitioners and establishing a code of conduct for the practice. Section 15(1) of the Act directs that the veterinary qualifications granted by any veterinary institution in India which are included in the first Schedule (to the Act) shall be recognised veterinary qualification

for the purpose of the Act. In other words, no <sup>other</sup> qualification granted by any one <sup>than</sup> those mentioned are recognised veterinary qualification. Section 30 ibid is also relevant in this regard.

"Section 30 : No person other than a registered veterinary practitioner, shall

a) hold office as veterinary physician or surgeon or any other like office (by whatever name called) in Government or in any institution maintained by a local or other authority :

b) practise veterinary medicine in any State :

Provided that the State Government may, by order, permit a person holding a diploma or certificate of veterinary supervisor, stockman or stock assistant (by whatever name called) of any State or any veterinary institution in India, to render under the supervision and direction of a registered veterinary practitioner, minor veterinary services.

Explanation - "Minor veterinary services" means the rendering of preliminary veterinary aid, like, vaccination, castration, and dressing of wounds, and such other types of preliminary aid or the treatment of such ailments as the State Government may, by notification in the Official Gazette, specify in this behalf ;

(c) be entitled to sign or authenticate a veterinary health certificate or any other certificate required by any law to be signed or authenticated by a duly qualified veterinary practitioner ;

(d) be entitled to give evidence at any inquest or in any court of law as an expert under section 45 of the Indian Evidence Act, 1872, on any matter relating to veterinary medicine."

Obviously, therefore, only a person who possesses a veterinary/animal husbandry degree from any of the institution enumerated in the First Schedule to the Act and who has registered as a registered veterinary practitioner can hold any veterinary/animal husbandry post in India. There is no exception to it and this would be the position in law since the Veterinary Council of India has come into being in August 1984.

9. Letter F.No.9-3/97-VCI/8581 dated 13.02.1998 brought on record is also quite significant in this regard. In the said letter Veterinary Council of India has clarified as to what exactly are the qualifications in terms of veterinary Science and indicated that though earlier the Degrees issued in that subject used to be B.V.Sc. or BVSc and AH or BSc(Vet) the degree presently being awarded in all the Universities in BVSc and AH. The Council goes on to indicate that the posts like STA (Livestock) and other such posts should not be held by any one who does not possess a veterinary degree as indicated above. The R/Rules 1987 and the above clarifications issued by the VCI make it abundantly clear that unless an individual has a recognised degree in Veterinary Science and/or Animal Husbandry from any one of the recognised universities/ institutions and has duly got himself registered with the VCI cannot be appointed to a Vetrinary post like the impugned one. In this case it is seen that the R-3 who has been appointed as AC(sheep) is a graduate in Agriculture where he has studied Animal Husbandry as a paper and Master's again in Agricultural Science with some Specialisation in Animal Husbandry and dairying. This definitely is not a qualification in Veterinary Science and Animal husbandry or even an equivalent. The fact that on an earlier occasion i.e. in 1992, UPSC has given a clasification that the qualification possessed by the R-3 fulfills the requirement under the R/Rules does not help the case of R-3 as once the VCI has come into being, by a statute of the Parliament, the only authority which can indicate as to what exactly is the qualification meant for holding a veterinary post is

VCI and not UPSC. Respondent 3 also does not have any registration by the VCI Evidently R-3 does not possess the necessary qualification for being considered for the post of AC(Sheep).

10. While perusing the minutes of the DPC and the related correspondence we have observed that UPSC had in its letter dated 13.01.2000 indicated that the R-3 possesses the prescribed educational qualifications, obviously on the basis of their earlier letter dated 03.03.1992, referred to in para 9 of their letter dated 26.11.99. Interestingly however, UPSC inspite of being impleaded as R-1 in this application and being served the notice has not bothered either to file their counter or to present their case as to how they could have overlooked the statutory prescription in the R/Rules as well as the requirements prescribed by VCI, the ultimate regulatory authority in the field in the country. We have no hesitation in holding that UPSC, who is charged with the responsibility of making recommendation for selection to Group 'A' posts like the one in dispute and for advising the various Ministries/Departments in matters of recruitment, has failed to perform its duties satisfactorily. It is also seen from the minutes of the DPC that respondent - 3, who did not at all possess the necessary qualificational qualification for the post was the only person considered for selection. The concerned authorities have failed to perform their duty correctly. Their action in selecting and appointing R-3 for the post of AC(Sheep) was totally illegal. It

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has to be quashed and set aside, in the interests of justice.

11. In the above view of the matter, the application succeeds and is accordingly allowed. The impugned order is quashed and set aside. Respondents are directed to take steps for filling up of post of AC(Sheep) from amongst those in the feeder cadre who fulfill both the educational qualification and eligibility conditions of service. If they do not have any one in the feeder cadre who can be so considered, they may resort to direct recruitment as provided for alternatively in the R/Rules.

12. Respondent-3 who is holding the post of AC (sheep) on the basis of illegal and incorrect selection, dehors R/Rules should be immediately reverted to his substantive post. No costs.

*Gopinathan S. Tamai*  
(Member (A))

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Vice-Chairman (J)

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