



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No. 3637/2021

Wednesday, this the 7th day of July, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Ashok Kumar Kotha
S/O Shri Soom Nath Kotha
R/O at present 16, Ashok Nagar,
Canal Road, Jammu.
(Aged 59 years)

2. R.M. Dhar
S/O Shri S.N. Dhar
R/O at present 74, Ashok Nagar,
Canal Road, Jammu.
(Aged 57 years)
Assistant Manager, (Dairy)
Central Cattle Breeding and Research Farm,
Belicharana, Jammu.

...Applicants

(Mr. C M Koul, Senior Advocate)

Versus

1. State of Jammu and Kashmir
Through Commissioner/Secretary to Govt.,
Animal/Sheep Husbandry Department,
Civil Secretariat at present at Jammu.

2. Director of Animal Husbandry,
J&K Government,
Jammu.

... Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)



ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicants were initially appointed in the Milk Supply Scheme (MSS), a wing of the Animal Husbandry Department. They were holding the post of Assistant Manager in that organization. MSS was wound up and the applicants were appointed in the Milk Supply Undertaking (MSU). Thereafter, they were made part of the Animal Husbandry Department. The Government issued SRO No. 43 dated 17.02.2004, extending special benefits to Veterinary Assistant Surgeons (VASSs) in the Department. It is to the effect that the VAS, in the scale of Rs.7500-12000 would be upgraded to the scale of Rs.8000-13500, in case they complete 10 years of service with Bachelor of Veterinary Science (BVSC) and Animal Husbandry (AH) degree and 7 years service with Post Graduation degree in that branch. The similar benefits were extended to other categories also by making a condition that it may subject to their holding BVSC degree. The applicants contend that they hold the degree of B.Sc. (Dairying) and it is equivalent to BVSC degree for all practical purposes. It is also stated that the scale of pay held by them was the same as that of Livestock Development Officer (LDO) and that they were entitled to the benefit of upgradation.



2. When the applicants were not extended the benefit, they approached the Hon'ble High Court of Jammu & Kashmir by filing SWP No.2079/2016. An interim order was passed on 14.12.2006, directing the respondents to consider the claim of the applicants in terms of SRO No.43 dated 17.02.2004. Stating to be in compliance of the directions, the respondents passed an order dated 18.08.2009, rejecting the claim of the applicants. Thereafter, the applicants filed CMP No.626/2010 before the Hon'ble High Court seeking a prayer to amend the SWP by challenging the order dated 18.08.2009, which was allowed vide order dated 03.12.2010. The applicants have also claimed the relief of pay scale of Rs.12000-16500.

3. The respondents filed a detailed counter affidavit opposing the SWP. It is stated that the extension of benefit of pay scale under SRO No.43 dated 17.02.2004 is totally dependent upon the candidates holding the BVSC degree and the applicants, who do not possess that degree, are not entitled to grant the benefits. It is also stated that the applicants have since retired long back and no relief can be granted to them.



4. The SWP has since been transferred to the Tribunal in view of reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.3637/2021.

5. Today, we heard Mr. C M Koul, learned senior counsel for applicant and Mr. Sudesh Magotra, learned Deputy Advocate General.

6. The applicants were initially appointed in MSS. On its wound up, they were appointed in the MSU. From there, they became part of the Department of Animal Husbandry. The post held by them was that of Assistant Manager. Incidentally, the post of Assistant Manager is not part of the establishment of Animal Husbandry.

7. The SRO No.43 dated 17.02.2004 conferred benefits upon VAS and other employees in the Department. The relevant part thereof reads:

- “i) The existing posts of VAS in the scale of Rs.7500-12000 are upgraded to the scale of Rs.8000-13500. Consequently all the VAS in the Sheep & Animal Husbandry Department with less than 10 years service with BVSC & AH degree and 7 years service with P.G. Degree shall be placed in the pay scale of Rs.8000-13500. All fresh recruitment to these posts shall be made in the pay scale of Rs.8000-13500.
- ii) Such of the VAS/LDOs/PDOs/SDO or equivalent and Deputy Directors DSHOs or its equivalent with more than 10 years service in respect of BVSC's and more than 7 years service in respect of post graduates shall be granted 1st time bound



promotion from their respective scales they are holding and placed in the pay scale of Rs.10000-325-15200. They shall be designated as VAS Grade-II or shall continue to carry the designation of the post they hold.

iii) Such of the VAS/LDOs PDOs/SDO or equivalent and Deputy Director DSHOS or its equivalent with cumulative 15 years service shall be granted 2nd time bound promotion scale placed in the pay scale of Rs.12000-16500 from the existing pay scale they are holding.”

8. From this, it is clear that the benefit is available only to such of the officers, who have rendered ten years of service in the pay scale of Rs.7500-12000 and hold BVSC or AH degree. Assuming that the applicants are in the pay scale of Rs.7500-12000, the fact remains that they did not hold the BVSC or AH degree. This is not a case where any Recruitment Rules as such are being followed. It is a special benefit conferred by the Government to a particular category and class of officers. Once the applicants do not fall into that category, the question of their being granted such relief, does not arise.

9. We do not find any merit in the T.A. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member (A) Chairman

July 7, 2021
/sunil/vb/