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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 306 of 1991

Date of Decision: 21.09.1993

P.K.Panda & Others

Applicant(s)

Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? No.

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VICE-CHAIRMAN

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MEMBER (ADMINISTRATIVE)

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Respondent(s)

For the applicant:

M/s. Devanand Misra
Deepak Misra
R.N.Naik, A.Deo
B.S.Tripathy
P.Panda, Advocates

For the respondents:

Mr. Akhaya Mishra
Addl. Standing Counsel
(Central Government)
Mr. U.B.Mohapatra, Addl. S.C. (Central)

C O R A M:

THE HONOURABLE MR. K.P. ACHARYA, VICE - CHAIRMAN

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

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JUDGMENT.

MR.H.RAJENDRA PRASAD, MEMBER (A), In this application S/Shri P.K.Panda , employed B.Mallik, B.K.Mallik, K.Ravi Kumar, /as Farm Supervisor or Hatchery Officer, in the Central Poultry Breeding Farm, Bhubaneswar, have challenged:

i) the non-extension to them of the benefit of enhanced pay scale of the Veterinary graduates from 1.1.1986 as recommended by 3rd Pay Commission, and (2) the recovery of certain amounts which were earlier paid to them allegedly by an erroneous application of the revised pay scales recommended by the same Pay Commission.

2. i) The applicants are employed as Farm Supervisor in the Central Poultry Breeding Farm, Bhubaneswar. The minimum qualification for recruitment to this post is a degree or diploma in Veterinary Science and Animal Husbandry, or a degree or diploma in agriculture Science. It is added that Veterinary graduates or diploma holders are preferred.

ii) The Fourth Pay Commission recommended the revised pay scale of Veterinary Graduates from Rs.550-750 to 2000 -Rs.3500/- .Following this, the emoluments of the petitioners were also initially enhanced to the revised/upgraded scale. It was, however, clarified later that the enhanced pay-scales recommended by the 4th Pay Commission would be applicable only to such posts where an incumbent has necessarily to be a graduate in Veterinary Science and Animal

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Husbandry and not to others. It implied that if this qualification i.e., B.V.Sc & A.H. was only one of the alternative qualifications required for a post, or, where a degree as well as diploma holders are both eligible for such post, the revised pay scale would not be applicable.

3. The further implication of this clarification, which was stressed by the learned counsel for the respondents, is that, according to the Government's decision, an enhanced pay-scale is justified where only a veterinary graduate is selected, on the basis of his professional qualification, to a job where he is required to perform wholly "veterinary" duties of all types expected of such graduates, and not to those who are not required, in the normal course of their duty, to perform the whole range of such "veterinary" duties. The petitioners' counsel contends, on the other hand, that they perform the same kind of duties and possess the same professional skills as are performed or possessed by all Veterinary graduates, including surgery and treatment of cattle and poultry. It is also pointed out by him that live-stock Officers, whose pay scale was only Rs.425 to 700/- prior to 4th pay Commission recommendations, were given the benefit of Rs.2000-3500/- whereas the applicants, who were even then drawing a higher pay (Rs.500-750/-) than the Livestock Officers, have been unfairly denied the enhanced

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scales. This, they contend, not merely amounted to gross discrimination, but also in effect placed all these officers drawing lower scales quite above a group which was even originally in receipt of a higher pay scale, and that this is nothing but an unfair advantage undeservedly conferred on them. Finally, they contend that in as much as some of the Farm Supervisors holding, like them, a degree in veterinary science have been given non-practising allowance, this fact alone establishes their claims which cannot be brushed aside lightly merely because they are holding a post for which such a degree is not exclusively essential.

4. In reply to the above contentions, the respondents point out that the minimum qualification for appointment as a Farm Supervisor is not only a degree in Veterinary Science and Animal Husbandry but even a diploma in the same discipline, and that an alternative stream is also available to degree or diploma-holders in Agricultural sciences. Thus, they further explain, a degree in Veterinary science in Animal Husbandry is not the only qualification, but 3 other allied qualifications too make candidates eligible for selection to the post of Farm Supervisor.

The respondents maintain further that the duties performed by Farm Supervisors are not exclusively veterinary in nature and that actually these officials are required to perform many other

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tasks which are of ancillary or allied nature, and such tasks that most of can be performed with advantage even by those incumbents who do not have a basic degree or even a diploma in veterinary sciences. They assert that, according to the authorities who are competent to judge these matters, the revised pay-scale recommended by 4th Pay Commission is applicable to only such cases where a degree in veterinary science and animal husbandry, and no other, is the essential minimum qualification. It is explained by them that Livestock officers, and also those other veterinary graduates who routinely perform in their entirety all jobs which are exclusively 'veterinary' in nature, are given the revised pay scale. As for the contention of the applicants that some Farm Supervisors have been given the revised Pay-Scales, they elucidate that, even here, such revised pay-scale has been given only in cases where the duties performed by some Farm Supervisors are exclusively and wholly 'veterinary' duties. The respondents also add that the duties performed by the petitioners do not certainly include surgery or medical treatment as claimed by them.

5. From the scrutiny of facts revealed in this case, it is apparent that the petitioners, who are undoubtedly veterinary graduates, are,

nevertheless, employed in jobs where their skills and qualifications as whole-time veterinarians are not called forth or utilised in full in the discharge of normal duties. They seem to be engaged in manning posts which are multi-disciplined and not all related or confined to the treatment of Live-stock or Poultry. The petitioners have vaguely referred to some office order No.44 dated 24.5.1981, which, according to them, shows similarities in duties of Farm Supervisors and other veterinary doctors. The said order has, however, not been annexed to the petition. We are, therefore, unable to judge what exactly is the similarity, if any, between their duties and those performed by veterinary graduates elsewhere. On the other hand, the counter filed by the respondents, even though extremely sketchy and inadequate for the most part, at least shows that Farm Supervisors are entrusted with veterinary as well as non-veterinarian duties in the spheres of farm- and labour-management, accounts and general administration.

6. The petitioners have repeatedly said that a degree in veterinary science is the minimum qualification for their posts, whereas the respondents have been able to show that this degree is only one of the four different qualifications required for the post.

7.  As regards the non-practising allowance,

the petitioners have annexed to their application a xerox copy merely of a professional journal which, while we have no reason to question its authenticity, is yet not an official document. However, it is seen from even this paper-clipping that the Government approved the payment of non-practising allowance in 1978 only for those posts for which a degree in veterinary science is the minimum qualification. This is entirely in line with the clarification issued by the Government in March, 1987 (Annexure-2 to the petition) and also referred by the Opposite Parties, which shows that, right from the beginning, the authorities seem to have been clear about the applicability of the revised pay scales to only such posts for which only a degree in veterinary science is the minimum qualification, and not an alternative, or, one of the different qualifications.

8. On the basis of the argument presented before us, it is evident that the Government have prescribed certain norms, parameters and criteria as the basis for their policy of extending the benefit of revised pay scales. In pursuance of this policy, a utilitarian-functional classification, linked to the precise nature of duties involved in different types of posts, seems to have been adopted. We can have no quarrel with either the criteria or with the classification. It has been brought out that the type of duties performed by the petitioners and

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the skills needed to perform them,

are only partly identical to the duties which are needed for the comprehensive health-care of animals and poultry. At the same time, it is also fairly clear that the jobs at present performed by the petitioners as Farm Supervisors are in some cases being performed equally by those who hold a diploma in veterinary science, or, alternatively by graduates and diploma-holders in agricultural sciences. Such being the case, it would be idle to claim that they are performing duties exclusively or wholly on par with ~~veterinarians~~ engaged in whole-time veterinary duties, including routine treatment and surgery.

9. Evolving or prescribing qualifications for the particular types of a job, ^{and} laying down the character of duties, are matters falling totally in the province of experts in the concerned departments. The issues involved in such matters are essentially technical in nature. In a similar case it was observed by the Jabalpur Bench of the Tribunal (in the case of Madhukar ~~Mal~~ More vs. Union of India & others (1980 AT 726) :

" The Tribunal cannot substitute itself for the Pay Commission and directly issue orders for change in the pay scales and it would be inappropriate for the tribunal to arrive at a judgment on the responsibilities and skills of the posts and trades involved".

It is thus obvious that it is not open to this Tribunal to interfere in the matter of structuring of individual posts in a Government department, or prescribing pay scales, and allied matters, all of which are administrative functions of the Government. In this case, the concerned authority has performed his allotted task of prescribing qualifications ^{and} selection, positioning of incumbents and allotment of specified duties. No legal infirmity ^{any of} is involved or pointed out in these.

10. In a case of Government of Andhra
Government
Pradesh and Another Vs. P.Ravinder and others (1991 SCC-
L & S -1363) the Apex Court observed as follows:-

"We have not been able to agree.... that when a notification is specific and is intended to apply to a specific group of cases for selection, it would be open to the Tribunal to extend the application beyond what has been clearly specified. It is one matter to say that the notification applied in a limited way may be hit by law, it is another to say that contrary to the restriction imposed, the Tribunal will allow the notification to have general application. We are inclined to agree..... that the Tribunal exceeded its jurisdiction in lifting the restriction imposed by the Government"

Although the Supreme Court was dealing with the question of selections in the above case, the principle enunciated is the same and wholly applicable to the present case under discussion. An executive decision has been taken by the Government, based on clearly-defined criteria, and it would be improper for the Tribunal to

interfere with it in any manner which would stretch or extend the applicability of the crit rea evolved by a competent authority.

11. In the light of the preceeding discussion, we are of the view that the contention of the petitioners is untenable in the face of the factual position putforward by the respondents. We cannot escape the inevitable conclusion that the petitioners are neither holding a post for which a degree in Veterinary Science and Animal Husbandry is the only, or, minimum qualification, nor are they performing any duties which are totally veterinary in nature. We express no opinion as to whether or not, and to what extent, if at all, the classification of trades, jobs and skills, as decided upon by the concerned authorities, is valid or assailable. These are completely technical issues not susceptible of authoritative interpretation by this Tribunal. Instead, we are persuaded to accept the decisions of the concerned authorities based on their expert opinion/questions of this kind. We therefore hold that the petitioners are not entitled to the reliefs claimed. Thus the application stands disallowed. No costs.

kgas 21-9-93
VICE-CHAIRMAN.

H. S. J. H.
MEMBER (ADMINISTRATIVE).

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Central Administrative Tribunal,
Cuttack Bench, Cuttack/Hossain.