

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 204/2019 (D.B.)**

1. Maharashtra Rajya Rajpatrit Pashuvaidyak Sanghatana, through its General Secretary Dr. Sanjay Sadashivrao Thakre, aged about 56 years, Flat No. M-19, Taty Tope Nagar, West High Court Road, Nagpur-440 015.

2. Dr. Tejas S/o. Sunil Wankhade, Aged about 25 years, Occupation: Student, Resident of Plot No.13, Dr. Wankhade Complex, M.I.D.C. Road, Near Hotel Lords, Usha Nagar, Amravati, Tahsil and District : Amravati.

3. Dr. Chetan S/o. Dewaji Alone, Aged about 24 years, Occupation: Student, Resident of Prabhag No.13, Ambedkar Nagar, At. Post and Tahsil : Aheri, District : Gadchiroli.

4. Dr. Shankar S/o. Ashanna Mutyalwar, Aged about 49 years, Occupation: Service, Resident of Lokmanya Colony, Irvin Chowk, Amravati - 444 602, Tahsil and District: Amravati.

Applicants

// VERSUS //

1. The State of Maharashtra, through its Principal Secretary, Animal Husbandry, Dairy Development and Fisheries, Mantralaya, Mumbai-32.
2. The Commissioner, Animal Husbandry, Aundh, Pune.
3. Shri Sawar Deoram Radka, Major, Occ. Service, R/O At Post District Veterinary Polyclinic, Chiplun, Dist Ratnagiri.
4. Shri Tayade Shaligrat Ghaman, Major, Occ. Service, R/O At Post District Veterinary Polyclinic, Jalna.
5. Shri Mhaske Sheshrao Madhavrao, Major, Occ. Service, R/O At Post District Insemination Centre, Osmanabad.
6. Shri Kamble Dattu Subhana, Major, Occ. Service, R/O At Post District Veterinary Polyclinic, Jalna.
7. Shri Pawar Sitaram Sonu, Major, Occ. Service, R/O At. Post District Insemination Centre, Satara.
8. Shri Narnavare Ashok Namdev, Major, Occ. Service, R/O At Post District Insemination Centre, Gondia.

9. Shri Pondkule Kiran Bapurao,
Major, Occ. Service, R/O At Post
Central Hatchery, Khadaki
Pune-03
10. Shri Dusawar Rajesh Shamrao,
Major, Occ. Service, R/O At Post
District Insemination Centre,
Bhandara.
11. Shri Jadhav Panjab Atmaram,
Major, Occ. Service, R/O At Post
District Deputy Commissioner
A.H, Yevatmal
12. Shri Wagh Sahebrao Taterao,
Major, Occ. Service, R/O At Post
District Insemination Centre,
Jalgaon.
13. Shri Gadhawe Ashruba Narayan,
Major, Occ. Service, R/O At Post,
District Veterinary Polyclinic,
Aurangabad.
14. Shri Dhekade Suresh Pandurang,
Major, Occ. Service, R/O At Post
District Deputy Commissioner
A.H, Solapur.
15. Shri Gutate Parameshwar
Keshawrao, Major, Occ. Service,
R/o At. Post Regional Joint
Commissioner Office,
Aurangabad.
16. Shri Chaudhari Devendra
Wasudeo, Major, Occ. Service,

R/O At. Post State Veterinary
Dispensary Grade-2, Dongargaon,
(Sawali), Taluka-Deori, Dist-
Gondia

17. Shri Kendre Jijaram Govindrao,
Major, Occ. Service, R/O At Post
District Veterinary Polyclinic,
Hingoli.
18. Shri Satdive Ragendra Pandurang,
Major, Occ. Service, R/O At Post
Bull Rearing Centre, Harsul,
Dist. Aurangabad.
19. Shri Shirsat Purushotam Jotiram,
Major, Occ. Service, R/O At Post
State Veterinary Dispensary
Grade-2, Amala, Dist. Amravati.
20. Shri Marathe Dilip Karnish,
Major, Occ. Service, R/O At Post
District Insemination Centre,
Chiplun, Dist. Ratnagiri
21. Shri Joshi Dhananjay Shantaram,
Major, Occ. Service, R/O At Post
District Deputy Commissinor
Office, Pune.
22. Shri Patil Prakash Shamrao,
Major, Occ. Service, R/O At Post
Cattle Breeding Farm, Jat, Dist.
Sangli.
23. Shri Yede Ravindrakumar
Nathulal, Major, Occ. Service, R/O
At Post State Veterinary

Dispensary Grade-2, Bhanpur,
Taluka, Dist. Gondia.

24. Shri Patil Suresh Tongal, Major,
Occ. Service, R/O At Post District
Veterinary Polyclinic, Nandurbar.
25. Shri Mohammad Khalid Moha
Noor Shaikh, Major, Occ. Service,
R/O At Post District Veterinary
Polyclinic, Nanded.
26. Shri Nikam Gulabrao Wasant,
Major, Occ. Service, R/O At Post
District Veterinary Polyclinic,
Dhule
27. Shri Bhat Ravindra Dattatrya,
Major, Occ. Service, R/O At Post
State Veterinary Dispensary
Grade-2, Charkada, Dist.
Amravati.
28. Shri Mane Rajaram Namdev,
Major, Occ. Service, R/O At Post
District Insemination Centre,
Solapur.
29. Shri Adasul Vijay Waman, Major,
Occ. Service, R/O At Post Regional
Disease Investigation Centre,
Pune.
30. Shri Handge Prakash Ganpat,
Major, Occ. Service, R/O At Post
Cattle Rearing Farm, Kopergaon,
Dist. Ahamadnagar.

31. Shri Anghole Ananta Mareshwar, Major, Occ. Service, R/O At Post Indian Veterinary Biological Products, Pune.
32. Shri Torpe Vijaykumar Radhakrushna, Major, Occ. Service, R/O At Post District Veterinary Assistant Commissinor Office, Ahamadnagar.
33. Shri Sayad Imdad Sayad Shafayat, Major, Occ. Service, R/O At Post District Veterinary Polyclinic, Amravati.
34. Shri Lad Dilip Wasantrao, Major, Occ. Service, R/O At Post District Insemination Centre, Dist-Jalna.
35. Shri Kakade Pramod Change, Major, Occ. Service, R/O At Post Cattle Breeding Centre, Kopargaon, Dist-Ahamadnagar.
36. Shri Sonavne Sunil Sandu, Major, Occ. Service, R/O At Post Check Point, Talasari, Dist. Palghar.
37. Shri Pawar Nandkishor Narayan, Major, Occ. Service, R/O At Post District Veterinary Polyclinic, Akola.
38. Shri Bhamre Vilas Devidas, Major, Occ. Service, R/O At Post Regional Joint Commissioner A.H, Mumbai.

39. Shri Khainar Suresh Baburao,
Major, Occ. Service, R/O At Post
District Veterinary Assistant
Commissioner Office, Jalgaon.
40. Shri Belsare Shriram Mahadev,
Major, Occ. Service, R/O At Post
Veterinary Mini Polyclinic,
Morshi District, Amravati.
41. Shri Bhadane Ragendra Dawal,
Major, Occ. Service, R/O At. Post
Regional Disease Investigation
Centre, Nashik-2.
42. Shri Asutkar Shridhar Vitthal,
Major, Occ. Service, R/O At Post
District Insemination Centre,
Dist- Wardha.
43. Shri Lonkar Vilas Pundlik, Major,
Occ. Service, R/O At Post Taluka
Veterinary Mini-polyclinic,
Warud, Aamner.
44. Shri Bawiskar Chintaman Zawaru,
Major, Occ. Service, R/O At Post
Regional Joint Commissioner,
Animal Husbandry Office, Nashik.
45. Shri Umrajkar Mukund
Madhukararao, Major, Occ.
Service, R/O At Post Taluka
Veterinary Mini-polyclinic,
Morshi, Dist. Amravati.
46. Shri Mane Ashok Rajaram, Major,
Occ. Service, R/O At Post District

Assistant Commissioner Of
Animal Husbandry Office,
Sindhudurg.

47. Shri Mahamuni Umesh Kashinath,
Major, Occ. Service, R/O At Post
Regional Disease Investigation
Laboratory, Chiplun Dist.
Ratnagiri.
48. Shri Umate Shiwaji Pandurang,
Major, Occ. Service, R/O At Post
District Assistant Commissioner
Of Animal Husbandry Office,
Satara.
49. Shri Nimbalkar Subhash Natthu,
Major, Occ. Service, R/O At Post
District Veterinary Polyclinic,
Jalgaon.
50. Shri Salunkhe Pralhad Atmaram,
Major, Occ. Service, R/O At Post
Taluka Veterinary Mini-
polyclinic, Islampur, Dist. Sangli.
51. Shri Barve Anil Dattatray, Major,
Occ. Service, R/O At Post District
Assistant Commissioner Of
Animal Husbandry Office, Alibag.
52. Shri Birhade Manoj
Harishchandra, Major, Occ.
Service, R/O At Post District
Veterinary Polyclinic, Nashik.
53. Shri Wetal Uttam Tukaram, Major,

Occ. Service, R/O At. Post District
Veterinary Polyclinic, Pune.

54. Shri Bhise Mahadev Rau, Major,
Occ. Service, R/O At. Post Taluka
Veterinary Mini-polyclinic, Kudal
State Veterinary Dispensary
Grade 2, Dukanwad, Kudal, Dist.
Sindhudurg.
55. Shri Wananje Bhimrao Santukrao,
Major, Occ. Service, R/O At Post
District Artificial Insemination
Centre, Nanded, Dist. Nanded.
56. Shri Mane Vishnu Bhagwan,
Major, Occ. Service, R/O At Post
District Artificial Insemination
Centre, Solapur, Dist. Solapur.
57. Shri Paikade Kaduba Bansilal,
Major, Occ. Service, R/O At Post
Bull Rearing Centre, Harsul,
Dist. Aurangabad.
58. Shri Bhopale Pundlik Lakhuji,
Major, Occ. Service, R/O At Post
Regional Joint Commissioner,
Animal Husbandry Office,
Amravati.
59. Shri Shivarkar Shankar
Bakaramji, Major, Occ. Service,
R/O At Post District Artificial
Insemination Centre, Chandrapur,
Dist. Chandrapur.

60. Shri Sapate Pramod Bhaya, Major, Occ. Service, R/O At Post (Under veterinary Polyclinic Bhandara), Veterinary Dispensary, Grade-1, Dabha
61. Shri Sadmakhe Suresh Motiram, Major, Occ. Service, R/O At Post Under District Veterinary Polyclinic Bhandara, Veterinary Dispensary, Grade-1, Kharabi.
62. Shri Pawale Ashok Ranba, Major, Occ. Service, R/O At Post District Deputy Commissioner Office, Latur.
63. Shri Gawas Chandrashekhar Vitthal, Major, Occ. Service, R/O At Post Taluka Veterinary Mini-polyclinic, Kudal, State Veterinary Dispensary Grade 2 Kasal Taluka Kudal, Dist. Sindhudurg.
64. Shri Farkande Bhanudas Jagganath, Major, Occ. Service, R/O At Post Cattle Breeding Farm, Tathawade, Pune-33.
65. Shri D. T. Suradkar, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade 2 Sherbajar, Panchayat Samiti Motala, Dist. Buldhana.
66. Shri K. W. Bawaskar, Major, Occ. Service, R/O At Post Veterinary

Grade 2 Dispensary Khandala,
Taluka Vaijapur, Dist.
Aurangabad.

67. Shri R. S. Bhilavekar, Major, Occ. Service, R/O At. Post Veterinary Dispensary Chavala, Panchayat Samiti Nandgaon khandeshwar District- Amravati.
68. Shri B. G. Bhalavi, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade 2 Bramhapuri, Taluka Mehakar, District Buldhana.
69. Shri V.D. Bhagwat, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade 2 Devghar, Taluka Khed, District Ratnagiri.
70. Shri L. K. Chakale, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade 2 Kaygaon, Taluka Gangapur, District Aurangabad.
71. Shri R. S. Patil, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade 2 Ingrul, Taluka Shirala, District Sangli.
72. Shri H. A. Meshram, Major, Occ. Service, R/O At Post Veterinary Dispensary Yekodi, Panchayat Samiti Sakoli, District Bhandara.

73. Shri P. S. Tumsare, Major, Occ. Service, R/O At Post Veterinary Dispensary Garra Bagheda, Taluka Tumsar District Bhandara.
74. Shri N. T. Damodhare, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade-2 Talvel, Panchayat Samiti Chandur Bajar, District Amravati.
75. Shri D. H. Jambhule, Major, Occ. Service, R/O At Post Panchayat Samiti Chimur, District Chandrapur.
76. Shri D. S. Vani, Major, Occ. Service, R/O At Post Adharbhut Gram Upkendra Sonati, Panchayat Samiti Mehkar, District Buldhana.
77. Shri P. K. Gadekar, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade 1 Bavada, Taluka Indapur, District Pune.
78. Shri D. S. Vanere, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade 2 Pimpalgaon Unda, Taluka Mehakar, District Buldhana.
79. Shri. D. G. Kulkarni, Major, Occ. Service, R/O At Post Panchayat Samiti Sangola, District Solapur.

80. Shri M. P. Telgote, Major, Occ. Service, R/O At Post Veterinary Dispensary Khartalegaon, Panchayat Samiti Bhatkuli, District Amravati.
81. Shri A.G. Gaundik, Major, Occ. Service, R/O At Post Veterinary Dispensary Kalashi, Panchayat Samiti Daryapur, District Amravati.
82. Shri V. J. Gore, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade 2 Devlapar, Panchayat Samiti Ramtek, District Nagpur.
83. Shri J. K. Dharne, Major, Occ. Service, R/O At Post Veterinary Mobile Clinic, Sironcha, Z. P. Gadchiroli.
84. Shri N. Z. Lute, Major, Occ. Service, R/O At Post Panchayat Samiti, Arjunimor, District Gondia.
85. Shri Y. U. Waghaye, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade 2 Bondgaaon Devi, Taluka Arjunimor, District Gondia.
86. Shri K. R. Padmane, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade 2 Vadner Bholji, Taluka Nandura,

District Buldhana.

87. Shri D. S. Pawar, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade 2 Sultanpur, Taluka Lonar, District Buldhana.
88. Shri D. D. Dhole, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade 2 Kalmeshwar, Panchayat Samiti Mehakar, District Buldhana.
89. Shri D. M. Behniya, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade 2 Pimpalgaon Kale, Taluka Jalgaon Jamod, District Buldhana.
90. Shri T. A. Patil, Major, Occ. Service, R/O At Post Veterinary Dispensary Shirala, Taluka Shirala, District Sangli.
91. Shri H. D. Parate, Major, Occ. Service, R/O At Post Veterinary Dispensary Neri, Panchayat Samiti Mohadi, District Bhandara.
92. Shri N. D. Goswami, Major, Occ. Service, R/O At Post Mobile Veterinary Clinic, Katol District, Nagpur.
93. Shri V. K. Upadhye, Major, Occ. Service, R/O At Post Mobile Veterinary Clinic Dharni, District Amravati.

94. Shri P. S. Bhise, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Chincholi Bu.,
Panchayat Samiti Anjangaon
Surji, District Amravati.
95. Shri B. S. Borse, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Dhuikhed, Taluka
Chandur Railway,
District Amravati.
96. Shri R. R. Vidhe, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade 2 Palaskhed,
Panchayat Samiti Chandur
Railway, District Amravati.
97. Shri P. B. Akarte, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade 2 Anjansigi,
Taluka Dhamangaon,
District Amravati.
98. Shri V. O. Roam, Major, Occ.
Service, R/O At Post Veterinary
Dispensary, Kokarda, Panchayat
Samiti, Anjangaon Surji,
District Amravati.
99. Shri S. M. Hadole, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Ghatladki, Panchayat
Samiti Chandur Bajar,
District Amravati.

100. Shri S. P. More, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade 2 Kurha,
Panchayat Samiti Tiwsa,
District Amravati.
101. Shri S. M. Ambekar, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade 1 Kikvi,
Taluka Bhor, District Pune.
102. Shri K. B. Jane, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade 2 Dorli, Taluka
Katol, District Nagpur.
103. Shri D. C. Meshram, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Benoda (Shahid)
Panchayat Samiti, Warud, District
Amravati.
104. Shri V. S. Kohle, Major, Occ.
Service, R/O At Post Poultry
Project Amravati.
105. Shri A.B. Mahalle, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade-2, Bagaon,
Panchayat Samiti, Amravati.
106. Shri M.U. Harinkhede, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade-1 Adasi, Taluka
Dist. Gondia.
107. Shri R.R. Bagal, Major, Occ.
Service, R/O At Post Panchayat

Samiti, Malshiras, Dist. Solapur.

108. Shri S.S. Adhau, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade-2 Keliweli,
Panchayat Samiti Akot,
Dist Akola.
109. Shri R.H.Ghorpade, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade-1, Wangi,
Taluka Kadegaon, Dist Sangli.
110. Shri K.R. Bankar, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade-2, Samada,
Taluka Sawali, Dist. Chandrapur.
111. Shri D.N. Gurnule, Major, Occ.
Service, R/O At Post Panchyat
Samiti, Ballarpur,
Dist Chandrapur.
112. Shri M.D. Harinkhede, Major, Occ.
Service, R/O At Post Panchyat
Samiti, Sawali, Dist Chandrapur.
113. Shri P.M. Bhusari, Major, Occ.
Service, R/O At Post Mobile
Veterinary Clinic Grade-1,
Gondpimpri, Dist Chandrapur.
114. Shri P.N. Kedar, Major, Occ.
Service, R/O At Post Panchyat
Samiti Mul, Dist Chandrapur.
115. Shri R.K. Pustode, Major, Occ.
Service, R/O At Post Panchyat

Samiti, Mul, Dist. Chandrapur.

116. Shri P.N. Kale, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade-2, Pobhurna,
Dist Chandrapur.
117. Shri B.P. Rane, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade-2 Masure, Tal.
Malwan, Dist. Sindhudurg.
118. Shri B.R. Kadam, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade-2 Kharsundi,
Tal Aatpadi, Dist Sangli.
119. Shri K.B. Kokde, Major, Occ.
Service, R/O At Post Veterinary
Dispensary, Lonikanda, Tal.
Haweli, Dist Pune.
120. Shri J.M.Saraf, Major, Occ. Service,
R/O At Post Panchyat Samiti
Veterinary Dispensary Grade-2,
Solapur, Veterinary Dispensary
Grade-2, Kandalgaon,
Dist Solapur.
121. Shri A.J. Kulkarni, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade-1, Amboli,
Tal Tryambakeshwar, Dist Nashik.
122. Shri P.P.Bokade, Major, Occ.
Service, R/O At Post Veterinary
Dispensary Grade-2, Bhendala,
Kundhada, Dist. Gadchiroli.

123. Shri M.N. Ghodke, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade-2, Narayangawhan, Tal Parner, Dist. Ahmadnagar.
124. Shri S.N. Deshmukh, Major, Occ. Service, R/O At Post Panchyat Samiti, Washim, Dist. Washim.
125. Shri S.R. Kale, Major, Occ. Service, R/O At Post Panchyat Samiti, Mangrulpir, Dist Washim.
126. Shri S.N. Gote, Major, Occ. Service, R/O At Post Veterinary Dispensary Grade-2, Jaulka, Panchayat Samiti Malegaon, Dist Washim.
127. Shri S.G. Bawankar, Veterinary Dispensary Grade-2, Supalipar, Dist Gondia.

Respondents.

Shri A.C.Dharmadhikari, Id. Advocate for the applicants.

Shri A.M.Ghogre, Id. P.O. for the respondent nos. 1 & 2.

Shri R.S.Parsodkar, Id. counsel for the respondent nos. 3 to 127.

Coram :- Hon'ble Shri Shree Bhagwan, Vice Chairman & Hon'ble Shri M.A.Lovekar, Member(J).

Date of Reserving for Judgment : 04th July, 2022.

Date of Pronouncement of Judgment : 10th Aug., 2022.

Per:-Member (I)**(Delivered on this 10th day of Aug., 2022)**

Heard Shri A.C.Dharmadhikari, learned counsel for the applicants, Shri A.M.Ghogre, learned P.O. for the respondent nos. 1 & 2 and Shri R.S.Parsodkar, ld. counsel for the respondent nos. 3 to 127.

2. In this Original Application order dated 08.03.2019 issued on 11.03.2019 by respondent no. 2 is impugned (A-12). By this order respondent nos. 3 to 127 who were holding the post of Assistant Livestock Development Officer, Grade-C in the pay scale of Rs. 5,200 – 20,200/-, G.P. 2800/- have been promoted to the post of Livestock Development Officer, Grade – B in the pay scale of Rs. 9,300 – 34, 800/- G.P. 4400/- on temporary basis and posted as in-charge of veterinary dispensary, Grade – 1.

3. According to the applicants they have been seriously prejudiced by the impugned order and if the impugned order stays their chances of career advancement would be severely hampered. Preliminary contention of the respondents, on the other hand, is that none of the applicants has a locus standi to maintain and prosecute this application because the alleged prejudice perceived by them is either too distant, fanciful or purely illusory.

4. The question of locus standi of the applicants has been raised by the respondents by way of a preliminary objection. According to them, none of the applicants falls within the definition of “a person aggrieved” under Section 19 of the Administrative Tribunals Act (“hereinafter referred to as the ‘Act’ ”) and hence this Tribunal cannot proceed to determine whether or not their grievances deserve to be redressed by it. It is apparent that this Tribunal will have to first decide the question as to whether it can entertain this application regard being had to the aforesaid preliminary objection raised by the respondents. If the applicants get through this hurdle by establishing their locus standi/ by showing that they squarely answer to the description of “person/s aggrieved” only then it would be permissible for this Tribunal to proceed to consider their grievances on merits so as to find out their entitlement to the relief claimed.

5. We may mention before proceeding further that this O.A. was decided by this Tribunal on 12.04.2022. It was dismissed on a preliminary ground that none of the applicants had a locus standi to avail and prosecute the remedy under Section 19 of the Administrative Tribunals Act, 1985. The applicants before us took exception to the judgment and order dated 12.04.2022 by filing W.P.No. 2274/2022 principally on the ground that this Tribunal had erred while negating contention of the applicants that they, and particularly applicant no. 1,

had locus standi to file and prosecute this original application. The Hon'ble High Court, by judgment dated 28.04.2022 remanded the matter to this Tribunal observing *inter alia* that while determining locus standi of applicant no. 1 this Tribunal had lost sight of Rule 4 (5) (b) of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988. While passing order of remand the Hon'ble High Court, however maintained the order to the extent of C.A. No. 101/2019 which was allowed by this Tribunal by the order impugned before the Hon'ble High Court. While remanding the matter it was further observed:-

"12. We also request the Tribunal to consider whether to avoid any further delay, that even if the Tribunal concludes that the Original Application is not maintainable, whether the Tribunal would also deal with the merits so that one complete order will facilitate the purpose for early disposal of the entire controversy, which is also the request of the learned counsel for the parties."

Hence, we proceed to decide the matter afresh on the preliminary issue of locus standi as well as, on merits.

6. On the point of their locus standi pleading of the applicants is as follows:-

"4.1. That the applicant No.1 is duly registered Organization of the Livestock Development Officers, Assistant Commissioners, Animal Husbandry, Deputy Commissioners,

Animal Husbandry, Joint Commissioners, Animal Husbandry and bears Registration Nu. E/1286/Mumbai. All the members of the applicant No.1-Organization are government servants and employees of the State Government. The majority members of the registered organization are the Livestock Development Officers, Group-A who are presently working and posted on various posts throughout the State of Maharashtra which include the City of Nagpur. The applicant No.1 Organization was formed with objective to protect the interest of its members including that of fighting against any sort of injustice or prejudice caused to them personally or their service career. The applicant No. 1 is filing this application in a representative capacity agitating the grievance of all the regularly appointed Livestock Development Officers- Group-A and who are presently working on the posts because the consequences of the order which is impugned is resultantly in prejudicing their service career and restraining them from seeking an accommodation/transfer/ posting on the posts that are actually reserved for the Livestock Development Officer and which cannot be filled in by promotions promoting the respondent Nos. 3 to 127 because none of them are qualified either illegally or otherwise to be appointed on the post of Livestock Development

Officer which has been done by the impugned order dated 08/03/2019. The details of the challenge have been enumerated below in detail.

*4.2 The applicant No. 2 is post graduate student of Nagpur Veterinary College, Nagpur which comes under the Maharashtra Animal and Fishery Sciences University (MAFSU) and is doing his post-graduation in Livestock Production and Management from October 2018. The petitioner No.2 has graduated as B.V.Sc. and A.H. (Bachelor of Veterinary Science and Animal Husbandry) from Nagpur Veterinary College, Nagpur and registered with Maharashtra State Veterinary Council. Copy of the Registration Certificate of the applicant No.2 is annexed herewith as **ANNEXURE-A-1**. It is submitted that the applicant No. 2 is thus, eligible and qualified to be appointed as Livestock Development Officer as and when the process of selection would be conducted by the Maharashtra Public Service Commission and thus, the applicant No.2 is entitled to compete for being appointed on the said post. It is submitted that there is likelihood that an advertisement of filling up the posts of Livestock Development Officer-Group-A is likely to be issued in the near future and thus, the applicant falls in the category of the proposed government servant.*

*4.3 The applicant No.3 is also student of Nagpur Veterinary College, Nagpur and is presently doing his Post-graduation in First Year of Veterinary Biochemistry. The applicant No.3 has passed his graduation in B.V.Sc. and A.H. The applicant No.3 is also eligible for being appointed on the post of Livestock Development Officer which is permanent Grade-A post of which basic qualification is that of passing of B.V.Sc. and A.H. examination and registration with Maharashtra State Veterinary Council. A copy of the registration certification is annexed herewith as **ANNEXURE-A-2**.*

4.4 The applicant No.4 is presently working as Livestock Development Officer and has been joined as applicant as he is presently aggrieved because of the posting of the order dated 08/03/2019 promoting the respondent No.3 to 127 and posting them as in charge of the Veterinary Dispensary, Grade-1, which post is actually to be filled in by a regular appointed Livestock Development Officer- Group-A like the applicant and therefore, the applicant is presently deprived of being posted on this post by virtue of transfer for which he has opted and which post has been filled in by promotion by issuing order dated 08/03/2019.

4.5. The applicants, therefore, submit that all the applicants have a locus to approach this Hon'ble Tribunal by filing the present application and challenging the order dated 08/03/2019 and specifically because it is issued in contravention and violation of the provisions of the Act of 1984 and the judgments delivered by the Hon'ble Supreme Court and the Hon'ble High Court, which clearly indicate that the Livestock Supervisors or Assistant Livestock Development Officers cannot be appointed or posted as in-charge Veterinary Dispensary Grade-1 and which post can actually and only be filled in by regularly appointed Livestock Development Officer-Group A."

7. It was argued by Shri A.C.Dharmadhikari, Id. counsel for the applicants that the matter was admitted by this Tribunal on 24.12.2020, therefore, now the question of locus standi of the applicants cannot be gone into and this Tribunal will have to proceed to decide all the issues arising in this application. This contention implies that the question of locus standi of the applicants should have been decided before the matter was admitted and now the clock cannot be turned back so as to enable the Tribunal to enter into the question of locus standi of the applicants and proceed to consider the same after the matter is admitted. We cannot persuade ourselves to accept this submission.

It is not supported by any authoritative pronouncement or statutory provision.

8. Section 19 of the act deals with applications to Tribunals.

Sub-sections (3) and (4) of Section 19 reads as under:-

“(3) On receipt of an application under sub-section (1), the Tribunal shall, if satisfied after such inquiry as it may deem necessary, that the application is a fit case for adjudication or trial by it, admit such application; but where the Tribunal is not so satisfied, it may summarily reject the application after recording its reasons.

(4) Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject – matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules.”

Section 20 of the act deals with applications not to be admitted unless other remedies exhausted.

Sub-section (1) of Section 20 reads as under:-

“(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the

remedies available to him under the relevant service rules as to redressal of grievances.”

Section 20 (1) of the Act quoted above lays down that the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant Rules.

Neither Section 19 or Section 20 of the Act, however, precludes the Tribunal from entering into and deciding the question of its own jurisdiction (with regard to the subject matter) after the matter is admitted.

9. Applicant no. 1 is a duly registered organization of Livestock Development Officers, Assistant Commissioners (Animal Husbandry), Deputy Commissioners (Animal Husbandry) and Joint Commissioners (Animal Husbandry). Most of the Members of this organization are Livestock Development Officers, Group-A. The organization was formed with an objective to protect and further just and legitimate rights and expectations of its members. Applicant nos. 2 & 3 are pursuing P.G. course after B.V.Sc. and they are eligible and qualified to be appointed as Livestock Development Officer whenever selection process commences. Applicant no. 4 is presently working as Livestock Development Officer. According to the applicants, because of the impugned order

applicant no. 4 is likely to be deprived of a posting as in-charge of Veterinary Dispensary, Grade-1. According to the applicants the impugned order is passed in contravention of Section 30 of the Indian Council of Veterinary Act, 1984 (hereinafter referred to as the "Act") and binding precedents of the Hon'ble Bombay High Court and the Hon'ble Supreme Court.

10. Respondent nos. 3 to 127 have elaborately set out their preliminary objection to this Original Application (i.e. locus standi of the applicants) in their written argument thus:-

"I-1 *It is submitted that owing to impugned order none of the members of the Applicant number 1 organisation is getting displaced or reverted from the posts which they are currently holding. And there is no such possibility of getting displaced or reverted in future also only because of the impugned order of promotion of respondent numbers 3 to 127. As far as their apprehension regarding non-availability of posts for accommodation/posting by way of transfer in future is concerned, it is submitted that this is merely an unfounded apprehension in their minds which has no real basis. As clarified by the government in it's reply (please see paragraph number 19 of the reply of respondent numbers 1 and 2 at page number 181 of the paper book of the Original Application) there are many other posts where the officer*

members of the Applicant number 1 organisation can be accommodated in the contingencies of transfer in future. Therefore the Applicant number 1 organisation does not fit into the term "person aggrieved". Hence the Original Application is liable to be dismissed, and may kindly be dismissed.

I-2 *It is submitted that the Applicant number 2 clearly does not fall within the term "person aggrieved". On his own showing the Applicant number 2 is still taking education. He is not currently holding any post in the government service. Because of impugned order he has not actually suffered any prejudice. Even a non-inservice person must establish that he is a person aggrieved for filing the Original Application before this Tribunal under Administrative Tribunals Act. The Applicant number 2 is merely banking upon a mere possibility of issuance of advertisement for filling up the post of Livestock Development Officer Group A by MPSC. However the fact of the matter is that no such advertisement is actually yet issued. And no application is made by Applicant number 2 in response to any such advertisement. Therefore the Applicant number 2 does not even become a proposed government servant. Therefore the Applicant number 2 also does not have any locus to file this application and hence the application is liable to be dismissed.*

I-3 *It is submitted that even with respect to Applicant number 3 he has no locus to file this application because he is also merely a student taking education. His situation is somewhat same as that of Applicant number 2 and therefore the submissions made with regard to Applicant number 2 may also be treated as reply submissions with regard to Applicant number 3 and this instant Original Application may kindly be dismissed vis a vis Applicant number 3.*

I-4 *It is submitted that Applicant number 4 is claiming locus only because of perceived apprehension that in the event of his transfer in the general transfers that would be conducted in the month of June or any time, no post would be available for him for being posted at Grade I Veterinary Dispensary. His grievance is connected with ground number B of the Original Application where it is stated that the Applicant number 4 had opted for transfer on the post of in-charge of Veterinary Dispensary Grade I but because of the impugned order of promotion his option to be posted at Veterinary Dispensary Grade I at Purna Nagar is permanently affected. In this respect attention of the honourable tribunal is invited to the refutal of this ground made in the reply of the respondent numbers 1 and 2*

*in paragraph number 5 (page 167 of the paper book). The government has clarified in that reply that the Applicant number 4 was transferred to the post of Veterinary Dispensary Grade I at Talegaon Dashasar, Taluka Dhamangaon Railway, District Amravati which post he had claimed by way of option. He was relieved from the earlier post on 1 June 2018 but he did not join the opted post by way of transfer for a long gap of 9 months and 11 days i.e. until 13 March 2019. The government, having waited for such a long period finally issued posting order of another officer on the same post on 8 March 2019. First priority for posting on the said post was given to the Applicant number 4 only. **The Applicant number 4 has suppressed all these facts** from the knowledge of this honourable court only to misleadingly claim that he is also a person aggrieved which claim is not correct. Further, even after issuance of the order dated 8 March 2019 the Applicant was allowed to join on the post which again he claimed by way of option. Thus the Applicant number 4 is not deprived of any opportunity of transfer/posting at the place of his choice and therefore on account of such misleading submissions, the instant Original Application may kindly be dismissed.”*

11. Respondent nos. 1 & 2, in para no. 19 of their reply (which is at pages 159) have pleaded:-

“19. It is submitted that, the contentions of the applicants are not tenable because there are several other posts in Animal Husbandry Department other than Veterinary Dispensary Grade-I where the Government have posted the veterinary graduate officers. Thus, Government have not limited the veterinary graduates with respect to their posting at clinical establishment like Veterinary Dispensaries Grade-1/ Taluka Mini Veterinary Polytechnic/ District Veterinary Polyclinic/ Mobile Veterinary Clinics etc. There is no deprivation of the rights of veterinary graduates by issuance of promotion and posting orders of Livestock Development Officer, Grade-B, since the quota of 85 % of the veterinary graduates in the cadre of Livestock Development Officer, Grade-A is maintained undistributed, while doing so. It is also surprising that the students undergoing B.V.Sc. and A.H./M.V.Sc. course are expressing their ‘Right’ to get posted on the post of veterinary dispensaries “Grade-1”; overlooking the mandatory procedure to be recommended by Maharashtra Public Service Commission during their selection procedure for the posts of Livestock Development Officer, Group-A. Thus, the question of

“deprivation of the right of the veterinary graduates in service of Animal Husbandry Department and of the students aspiring service in Animal Husbandry Department” does not arise.”

12. In para no. 5 of their reply respondent nos. 1 & 2 have stated:-

“It is submitted that, the applicant no. 4 is Dr. Shankar Ashanna Mutyalwar joined the services as Livestock Development Officer on 27.10.1999. The applicant was posted at District Veterinary Polyclinic on 06.06.2013. The applicant was due for transfer upon completion of tenure and accordingly, he was transferred to the post of Veterinary Dispensary Grade-I, Talegaon Dashasar Tal. Dhamangaon Railway Dist. Amravati, the post claimed by the applicant to be his opted posting. He was relieved from the earlier post on 01.06.2018 but he did not join the post of transfer (which he has opted) until 13.03.2019, i.e. after a wishful and conscious gap of 9 months and 11 days. Having waited for such a long period, the Government finally issued posting order of another officer on the same post on 08.03.2019. Thus, the first priority for the posting on the said post was given to the Applicant only and hence, the say of the applicant is misleading and should be denied. Even after issuance of the order dated 08.03.2019, the applicant was allowed to join on the post he claims to have

opted for posting and therefore he is not deprived of any opportunity to join on the post of transfer/ posting. Hence, the say of the applicant is baseless and hence, denied.”

13. In support of their submission that none of the applicants would answer to the description of “a person aggrieved” as defined under Section 19 of the Act, the respondents have relied on the following rulings:-

(A) **Dr. Duryodhan Sahu and Ors. Vs. Jitendra Kumar Mishra & Ors. delivered on 25.08.1998 by the Hon’ble Supreme Court in S.L.P. Nos. 10472 – 10474/95.** In this case the two questions that fell for determination of the Supreme Court were framed as under:-

“2. Two questions have arisen for decision (1) whether an Administrative Tribunal constituted under Administrative Tribunals Act, 1985 (hereinafter referred to as the ‘Act’) can entertain a public interest litigation and (ii) whether on the facts of this case the Tribunal has exceeded its jurisdiction in passing the impugned order?”

While answering these questions the Hon’ble Supreme Court held :-

“14. Section 14 of the Act provides that the central Administrative Tribunal shall exercise all the

jurisdiction, powers and authority exercisable by all courts except the Supreme Court immediately before the appointed day in relation to matters set out in the section. Similarly, section 15 provides for the jurisdiction, powers and authority of the State Administrative Tribunals in relation to matters set out therein. Sections 19 to 27 of the Act deal with the procedure. Section 19 strikes the key-note. Sub-sections (1) and (4) of section 19 are in the following terms:

S.19 (1) Subject to other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.

(a) by the Government or a local or other authority within the territory of India or under the control of the Govt. of India or by any corporation (or society) owned or controlled by the Government; of

*(b) by an officer, committee or other body or agency of the Government or a local or other authority or corporation (or society) referred to in clause (a) ******

S.19

(4)

Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service

rules as to redressal of grievances in relation to the subject matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules.

15. *Section 20 provides that the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant rules. Section 21 provides for a period of limitation for approaching the Tribunal. A perusal of the above provisions shows that the Tribunal can be approached only by 'persons aggrieved' by an order as defined. The crucial expression 'persons aggrieved' has to be construed in the context of the Act and the facts of the case.*

16. *In Thammanna versus K. Veera Reddy and other (1980) 4 S.C.C. 62 it was held that although the meaning of the expression 'person aggrieved' may vary according to the context of the statute and the facts of the case, nevertheless normally, a person aggrieved must be a man who has suffered a legal grievance, a man against whom a decision has been pronounced*

which has wrongfully deprived him of something or wrongfully refused him something or wrongfully affected his title to something.

17. *In Jasbhai Motibhai Desai Versus Roshan Kumar Haji Bashir Ahmed and others (1976) 1.S.C.C. 671 the Court held that the expression 'aggrieved person' donotes an elastic, and to an extent, an elusive concept. The Court observed: "...It cannot be confined within the bounds of a rigid, exact, and comprehensive definition. At best, its features can be described in a broad tentative manner. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statue of which contravention is alleged, the specific circumstances of the case, the nature and extent of the petitioner's interest, and the nature and extent of the prejudice or injury suffered by him'.*

18. *The constitution of Administrative Tribunal was necessitated because of large pendency of cases relating to service matters in various courts in the country. It was expected that the setting up of Administrative Tribunals to deal exclusively in service matters would go a long way in not only reducing the burden of the Courts but also provide to the*

persons covered by the Tribunals speedy relief in respect of their grievances. The basic idea as evident from the various provisions of the Act is that the Tribunal should quickly redress the grievances in relation to service matters. The definition of 'service matters' found in Section 3 (q) shows that in relation to a person the expression means all service matters relating to the conditions of his service. The significance of the word 'his' cannot be ignored. Section 3 (b) defines the word 'application' as an application made under Section 19. The latter Section refers to 'person aggrieved'. In order to bring a matter before the Tribunal, an application has to be made and the same can be made only by a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal. We have already seen that the work 'order' has been defined in the explanation to sub-s. (1) of Section 19 so that all matters referred to in Section 3 (q) as service matters could be brought before the Tribunal if in that context, Sections 14 and 15 are read, there is no doubt that a total stranger to the concerned service cannot make an application before the Tribunal. If public interest litigations at the instance of strangers are allowed to be entertained by the Tribunal the very object of speedy

disposal of service matters would get defeated.

19. *Our attention has been drawn to a judgement of the Orissa Administrative Tribunal in Smt. Amitarani Khuntia Versus State of Orissa 1996. (1) OLR (CSR)-2. The Tribunal after considering the provisions of the Act held that a private citizen or a stranger having no existing right to any post and not intrinsically concerned with any service matter is not entitled to approach the Tribunal. The following passage in the judgement is relevant: "...A reading of the aforesaid provisions would mean that an application for redressal of grievances could be filed only by a 'person aggrieved' within the meaning of the Act.*

Tribunals are constituted under Article 323 A of the Constitution of India. The above Article empowers the Parliament to enact law providing for adjudication or trial by Administrative Tribunals of disputes and complaints with respect to 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 or any local or other authority within the territory of India or under the control of the Government and such law shall specify the jurisdiction,

powers and authority which may be exercised by each of the said Tribunals. Thus, it follows that Administrative Tribunals are constituted for adjudication or trial of the disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts. Its jurisdiction and powers have been well-defined in the Act. It does not enjoy any plenary power." We agree with the above reasoning."

(B) Gopbandhu Biswal Vs. Krishna Chandra Mohanty and Ors. (1998) 4 SCC 447. In this case the question that fell for determination was whether the third party aggrieved by the decision of the Tribunal could file an application for review as provided under Section 22 (3) (f) of the Act. It was held that Review Application by the third party aggrieved by the decision is maintainable if it is within limitation and is filed in accordance with Section 22 (3) (f) of the Act read with order 47, Rule 1 C.P.C.

In para no. 13 it was held :-

"It is difficult to include the applicants in the review applications in the category of "persons aggrieved". The main applicant i.e. the present appellant-Biswal had joined as party respondents all those persons who had superseded him for selection to the Indian Police Service since they would

be persons affected in case he succeeded in his application. The Tribunal had directed that Biswal be considered for promotion between 1977 and 1980 and not thereafter. During this period, the two applicants in review application No. 16 of 1993 were nowhere within the zone of consideration for promotion to I.P.S. One of the applicants joined the police service only in 1974 and was not eligible for further promotion till 1982. The other applicant, though eligible for promotion, was on account of his rank in the seniority list, not within the zone of consideration at any time prior to 5.11.1980. As a matter of fact the two applicants in review application No. 16 of 1993 were selected for promotion to I.P.S. only in 1993 when they were included in the select list of 1993. Therefore, they could not have been made parties in T.A. No. 1 of 1989. At that point of time, these applicants had only a chance of promotion in future. This does not confer any legal right on these applicants and they cannot be considered as parties aggrieved by the impugned judgment. However, leniently one may construe the term 'party aggrieved', a person not directly affected cannot be so considered. Otherwise for years to come, every person who becomes eligible for promotion will be considered a 'party aggrieved'

when the Tribunal interprets any service rule such as in the present case. Only persons who are directly and immediately affected by the impugned order can be considered as 'parties aggrieved' under Section 22(3) (f) read with Order 47 Rule 1."

(C) Babua Ram & Ors. Vs. State of U.P. and Another (1995) 2 SCC 689. In this case it is held that the person aggrieved must, therefore, be one who has suffered a legal grievance because of a decision pronounced by Civil Court.

(D) Thammanna Vs. K. Veera Reddy & Ors. (1980) 4 SCC 62. In this case it is held :-

"Although the meaning of the expression "person aggrieved" may vary according to the context of the statute and the facts of the case, nevertheless, normally "a 'person aggrieved' must be a man who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something or wrongfully affected his title to something." As Per James L. J. in Re Sidebotham referred to by this Court in Bar Council of Maharashtra v. M.V. Dabholkar and J. N. Desai v. Roshan Kumar."

(E) Bar Council of Maharashtra Vs. M.V.Dabholkar & Ors. (1975) 2 SCC 702. In this case it is held :-

“The words “person aggrieved” are found in several statutes and the meaning will have to be ascertained with reference to the purpose and the provisions of the statute. It may vary according to the context of the statute.”

14. We have considered rival pleadings, contentions as well as rulings on the point of locus standi.

15. So far as applicant no. 1 is concerned, Rule 4(5)(b) of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 shall be relevant. It reads as under:-

“4. Procedure for filing application-

*(1) *****

*(2) *****

*(3) *****

*Provided*****

*(4) *****

(5) Notwithstanding anything contained in sub-rules (1) to (3), the Tribunal may permit,

*(a)*****

(b) such permission may also be granted to an association representing the persons desirous of joining in a single application provided, however, that the

application shall disclose the class/grade/categories of the persons on whose behalf it has been filed.”

We have elaborately set out rival pleadings and contentions on the point of locus standi. Instant application clearly discloses the Class/Grade/Categories of the persons on whose behalf it has been filed. We may further observe that C.A. No. 101/2019 filed by the applicants seeking permission to file original application jointly was allowed on 12.04.2022 though it was filed along with the O.A.. Both these circumstances support contention of the applicants regarding locus standi of applicant no. 1. By applying various yardsticks laid down in the above referred rulings and Rule 4 (5) (b) of the Rules, we have come to the conclusion that applicant no. 1 can be said to be a person aggrieved when considered in the light of purpose and the provisions of the Administrative Tribunals Act, 1985 since the grievances raised by it are neither illusory nor distant. These conclusions are supported by aforequoted observations in the case of “Jash Bhai”.

16. So far as applicants 2 & 3 are concerned, they are still not in the service of State Government. They have merely acquired the qualification. They may or may not opt for the job in question. There are several imponderables which show that they cannot be said to be persons aggrieved because chances of the impugned order causing

prejudice to them are rather slim and remote and hence we hold that they do not have locus standi.

17. So far as locus standi of applicant 4 is concerned, it is the contention of the applicants that if the impugned order is allowed to remain there is a strong likelihood of applicant no. 4 losing an opportunity of being posted as incharge of Veterinary Dispensary, Grade 1. We have quoted above para 1.4 of written arguments of respondent nos. 3 to 127. Averments in para 1.4 have not been traversed by the applicants. Having regard to these averments we hold that applicant no. 4 has no locus standi as he cannot be said to be a person aggrieved, by virtue of his own conduct i.e. refusing posting to Veterinary Dispensary, Grade-I.

18. Since we have held that applicant 1 has locus standi to file and prosecute this O.A., it will have to be decided on merits notwithstanding our conclusion that respondents 2 to 4 do not have locus standi.

19. The applicants have placed on record at A-3 "Livestock Development Officers in Maharashtra Animal Husbandry Service, Class-II, in the Animal Husbandry Department (Recruitment) Rules, 1988".

By a deeming provisions these rules were made applicable w.e.f. 01.04.1981. Rules 4 & 5 of these rules read as under:-

“4. Appointment to the post of Livestock Development Officer shall be made, either-

i) By promotion of a suitable person either working under the state sector or Zilla Parishad on the basis of seniority subject to fitness from amongst the persons holding the post of Assistant in Livestock Development Officer, Class-III, the Animal Husbandry Department or a Zilla Parishad and having continuous service for not less than 10 years in the State sector or Zilla Parishad as the case may be. Experience prior to passing the Diploma Course while in service shall be counted at the rate of one year for every two years of past service;

(b) By nomination from amongst candidates who-

i) Unless already in the service of Government are not more than 28 years of age;

ii) Possess a Bachelor's Degree in Veterinary Science or Veterinary Science and Animal Husbandry:

Provided that the age limit may be relaxed by Government on the recommendation of the commission

in favour of candidates having exceptional qualification or experience or both.”

“5. Appointment to the post of Livestock Development Officer by promotion and by nomination shall be made in the ratio of 15:85, respectively:

Provided that the 15% vacancies in promotion quota shall be divided equally between the Assistant Livestock Development Officers in the Animal Husbandry Department and those under the Zilla Parishads:

Provided further that, for initial formation of the cadre of Livestock Development Officer, the Veterinary Officers, Extension Officers, Research Assistants, Field Assistants, in the Government and Zilla Parishad Sectors, shall be considered for appointment as Livestock Development Officers in Maharashtra Animal Husbandry Service, Class-II on the basis of confidential records of the service put in by them, till all the officers holding those posts upto 1st April, 1991 are absorbed as Livestock Development Officers in relaxation of the ratio for promotion and nomination prescribed in this rule and also the orders regarding reservation of posts for backward classes.”

20. Rule 3 of these rules reads as under:-

“3. In these rules unless the context requires, otherwise,-

(a)“Animal Husbandry Department” means the Animal Husbandry Department of the Government of Maharashtra.

(b)“Commission” means the Maharashtra Public Service Commission.

(c)“Degree” means a degree of a statutory university;

(d)“Diploma” means a Diploma of two years in Veterinary and Animal Husbandry Science awarded while in service to the Livestock Supervisor approved by the Animal Husbandry Department of the Government of Maharashtra;

(e)“Zilla Parishad” means a Zilla Parishad constituted under section 9 of the Maharashtra Zilla Parishads and Panchayat Samities’ Act, 1961, (Mah. V of 1961).”

21. The applicants have placed on record notification dated 23.07.1997 (A-4) which states:-

“Now therefore in exercise of the powers conferred by sub-section (3) of section I of the Indian Veterinary Council Act, 1984 the Central Government hereby appoints the 1st day of

August, 1997 as the date on which the Act shall come into force in the State of Maharashtra.”

22. According to the applicants, once the Act of 1984 was made applicable to the State of Maharashtra aforesaid recruitment rules of 1988 automatically ceased to operate and apply, and from 01.08.1997 provisions of the Act became applicable for all purposes including appointments, promotions, etc.

23. According to the applicants a conjoint consideration of Sections 2 (e), 2 (f), 2 (g) and 30 of the Act would fully support their contention that neither any Livestock Supervisor nor Assistant Livestock Development Officer can be appointed or posted in Grade-1 Veterinary Dispensary and the said post can only be filled by an officer who is appointed and working as Livestock Development Officer, Group-A.

These provisions read as under:-

2. Definitions.— *In this Act, unless the context otherwise requires,—*

(a) *****

(b) *****

(c) *****

(d) *****

(e) “*recognised veterinary qualification*” means any of the veterinary qualifications included in the First Schedule or the Second Schedule;

(f) “*register*” means a register maintained under this Act;

(g) “*registered veterinary practitioner*” means a person whose name is for the time being duly registered in a register;

(h) ****

(i) ****

(j) ****

(k) ****

(l) ****

30. Right of persons who are enrolled on the Indian veterinary practitioners register.—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) issued by the Directorate of Animal Husbandry (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 (1 of 1872), on any matter relating to veterinary medicine.

It was submitted by Advocate Shri A.C.Dharmadhikari that from these provisions it will become clear that a person who is not

holding a Degree/Graduation as prescribed in the first schedule or the second schedule and whose name is not registered in the register of Veterinary Practitioners cannot be appointed on the post of Livestock Development Officer in a Grade-1 Dispensary and such unregistered Veterinary Practitioner can render minor Veterinary Services as prescribed in explanation to proviso to Section 30 of the Act.

24. The applicants have also placed on record G.R. dated 25.05.2004 (A-5) heading of this G.R. is as under:-

“पशुसंवर्धन विभागाच्या अधिपत्याखालील पशुसंवर्धन आयुक्तालयातर्गत पदांचा आढावा व पुनर्रचना.”

This G.R. further states:-

“१८ पदनांमात बदल:-

पशुसंवर्धन विभागांतर्गत कार्यरत असलेल्या संवर्गातील पदांच्या पदनामामधिल शासन निर्णयाच्या परिशिष्ट-८ मध्ये नमूद केल्याप्रमाणे बदल करण्यांस शासन मान्यता देत आहे. या पदांवर पदस्थापना देण्यासाठी जे सेवा प्रवेश नियम अस्तित्वात अहेत तेच सेवाप्रवेश नियम लागू राहतील तसेच सेवा प्रवेश नियमात सुधारणा करून व सुधारित करून व सुधारित पदनामांचा त्यामध्ये अंतर्भाव करण्याची कार्यवाही स्वतंत्रपणे करण्यात येईल.

१९. उच्च स्तरीय समितीने मंजूरी दिल्यानुसार आयुक्त पशुसंवर्धन कार्यालयातील सध्या अस्तित्वात असलेल्या पदांचे एकत्रिकरण:

पशुधन विकास अधिकारी (गट ब) व सहायक संचालक पशुसंवर्धन (गट-अ) या दोन्ही पदांची वेतनश्रेणी रु. ८०००-१३५०० अशी एकच असल्याने पशुधन विकास अधिकारी (गट-ब) यांना गट-अ संवर्गात समाविष्ट करण्यास व त्याबाबत सेवा प्रवेश नियमांत सुधारणा करण्यास शासन मान्यता देत आहे.”

Based on this G.R. it is the contention of the applicants that by this G.R. only post of Assistant Livestock Development Officer, Class-III was renamed as Assistant Livestock Development Officer, Group-C but the position remained that Assistant Livestock Development Officer, Group-C or Assistant Livestock Development Officer, Group-B were not entitled for being promoted to the post of Livestock Development Officer, Group-A because they did not possess the necessary qualification for being a Graduate and a registered Veterinary Practitioner.

25. Further contention of the applicants is that as per explanation to proviso to Section 30 of the Act Assistant Livestock Development Officers, Group-C can be allowed only to perform minor veterinary services and this position is made clear in the following judgments:-

“1. Udai Singh Dagar & Ors. Vs. Union of India & Ors.- Judgment of the Hon’ble Supreme Court delivered on 15.05.2007 in (Civil) W.P.No.04 of 2005 (A-6). In this case it is held :-

“59. We have noticed the contention of the learned Senior Counsel appearing on behalf of the petitioners that there exists an inconsistency insofar as whereas under the Central Act only the degree holders are entitled to be enrolled

in the register maintained by the Central Council; the State Act recognizes the diploma and certificate holders also.

60. Veterinary services in terms of the Central Act is in two parts (1) veterinary services and (2) minor veterinary services. What would be the minor veterinary services has been laid down by reason of a notification issued by the respective State Governments in exercise of their power under clause (b) of Section 30 of the Central Act. Once such a notification has been issued, indisputably, those who are not otherwise entitled to resort to veterinary practices within the meaning of the Central Act can be asked to perform the jobs of minor veterinary services.

61. A distinction exists between a repeal simpliciter and a repeal by an Act which is substituted by another Act.”

2. Maharashtra State Veterinary Council Vs. State of Maharashtra and Ors. – Judgment dated 13.12.2010 delivered by the Division Bench of Hon’ble High Court in W.P.No. 2360/2007 (A-7). In this case it is held :-

As is apparent from Section 30 of the Act, it confers the following rights on a registered veterinary practitioner:-

(a) to hold office of veterinary physician or surgeon.

(b) to hold a like office and

(c) to practice veterinary medicine in any State.

These rights are conferred only on registered veterinary practitioners, which means on persons holding recognised veterinary qualifications, which alone permits registration. According to the Act, only degree holders are entitled to be registered as veterinary practitioner vide Section 15 and the First Schedule. By the proviso to Section 30, the State Government is empowered to permit non degree holders, such as persons holding diploma or a certificate of veterinary supervisor, stockman or stock assistant etc. to render minor veterinary services, however, under the supervision or direction of a registered veterinary practitioner. The explanation to this Section defines "minor veterinary services". This is the fourth kind of right, which is conferred or reserved by the Act on persons having lesser qualifications like a diploma. The main contention on behalf of the petitioner is that the respondents-Zilla Parishads could not have issued any advertisements for the recruitment and, thereafter, actually recruit the persons in the posts of Livestock Supervisors since there is an absolute bar on the recruitment of diploma holders. Further, according to the petitioner, these supervisors have been appointed for working independently on

dispensary Grade-II, which is impermissible since the said persons can only render minor veterinary services under the supervision and direction of a registered veterinary practitioner.

3. *A close scrutiny of Section 30 of the Act, however, does not make it possible to accept the contention on behalf of the petitioner. Section 30 of the Act, in its true intent and purport and in plain terms, permits a registered veterinary practitioner to hold Office as Veterinary Physician and Surgeon and practise veterinary medicine in any State. In terms, the Section does not bar those, who are not registered and also cannot be registered, from providing minor veterinary services. There is also no doubt that, in the present case, respondent-State of Maharashtra had issued such an order on 27.08.2009. It was, however, contended by Mr. Patil, the learned counsel for the petitioner, that Section 30 of the Act totally prohibits a veterinary practitioner, who cannot be registered, such as diploma holder, from rendering veterinary services and, therefore, from holding the office of Veterinary Surgeon or Physician. It is not possible to accept this submission since Section 30 of the Act debars a person, other than a registered veterinary practitioner, only from holding the office of the Veterinary Surgeon and*

*Physician on a core office and from practicing the veterinary medicine in any State. It does not bar the said person from holding any office other than that of the Veterinary Physician and Surgeon. Indeed, there is no dispute that a Livestock Supervisor does not perform the work of the Veterinary Physician or Surgeon and merely performs minor veterinary services as specified in explanation to Section 30 of the Act. The respondent State has submitted a list of duties, which a Livestock Supervisor is required to perform. A plain reading of that list at page no. 426 of the petition indicates not a single duty which appertains to the office of the Veterinary Practitioner or Surgeon but only duties referable to minor veterinary duties specified in the explanation. It was, however, contended by Mr.Patil, that the Supreme Court in *Udai Singh Dagar & Ors. ..vs.. Union of India & ors. 2007 (7) SCALE 278*, has held that persons, not holding a degree in Veterinary Sciences, cannot be employed or practice veterinary science in the State. On going through the judgment, we find that the Supreme Court has held that after coming into force of the Act, non-graduate veterinary practitioners, who are registered under the old Maharashtra Veterinary Practitioners Act, are not eligible to practice veterinary medicines on the same condition*

and in the same manner as they were doing prior to the coming into force of the Indian Veterinary Council Act, 1984 and that the said non graduate practitioners are not entitled to be registered as veterinary practitioners. The Supreme Court did not consider and indeed was not called upon to, consider the question; whether such non graduate veterinary practitioners can be appointed to render minor veterinary services under supervision and direction of the registered veterinary practitioner as contemplated by the proviso and explanation to Section 30 of the Act.”

It is further held:-

*“The proviso permits non graduate practitioners to render minor veterinary services "under the supervision and direction of a registered veterinary practitioner". What is contemplated is that the said person must work under the vigil of and, as it were, under the guiding eyes of the registered veterinary practitioner. The said posting would necessarily have to be in such a way that the registered veterinary practitioner can directly oversee the work of the non graduate. We derive support from the observations of the Supreme Court **in C.E.S.C. Limited and ors. ..vs.. Subhash Cahndra Bose and ors.; (1992) 1 Supreme***

Court Cases 441, where in paragraph 36, the Supreme Court observed as under:-

"36. Let me, therefore, consider the ambit of the word 'supervisor' under Section 2 (9) (ii) of the Act. In Webster Comprehensive Dictionary (International Edition) the word 'supervision' has been defined at page 1260 in Vol. II as "authority to direct or supervise", supervise means-have a "general oversight of ". In Corpus Juris Secundum, (Vol. 83 at page 900) it is stated that "The word 'supervision' is not of precise import and when not limited by the context is broad enough to cover more than one subject. It implies oversight and direction, and does not necessarily exclude the doing of all manual labour, but may properly include the taking of an active part in the work." "Supervision" is defined as meaning "the act of overseeing or supervising; having general oversight of, especially as an officer vested with authority; inspection; oversight; superintendence."

Words and Phrases, (Permanent Education, Vol. 40-A) defines that the "supervision" means oversight, an act or occupation of supervising; inspection. "Supervision" is an act of overseeing or supervision; having general oversight

of, especially as an officer vested with authority; inspection; oversight; superintendence. "Control" is the act of superintending; care and foresight for purpose of directing and with authority to direct; power or authority to check or restrain; restraining or directing influence; regulating power. Contract of employment to "supervise" construction of power plant, steam distribution system held to require time and attention to work needed to see that it was properly and promptly done, regardless of number of hours spent thereon. The word "supervision" is not one of precise import and is broad enough to require either supervisor's constant presence during work supervised or his devotion thereon of only time necessary to see that it complies with contract specifications, advise as to details, prepare necessary sketches and drawing, etc. In Owen v. Evans & Owen (Builders) Ltd. the Court of Appeal was called upon to consider the meaning of the words "immediate supervision" under Building (Safety, Health and Welfare) Regulations, 1948. Whether the presence of the supervisor is necessary at all times? It was held no. Ormerod, L.J. Held that in each case the question must be decided how much supervision is required in the circumstance of the case being considered? If every move was fraught with danger, then clearly

supervision of the most constant kind would be demanded, and the supervisor must be there all the time. On the other hand, there may be certain parts of the work, if not the whole of it, which do not give rise to any foreseeable danger, and in those circumstances it may well be that the intention of the regulation is that supervision need not be so strict. Upjohn, L.J. As he then was, while agreeing held that the real question is whether there was a supervision for the purposes of the regulation and was that a proper or adequate supervision? The regulations are formulated for the protection of the workman, but, at the same time, they must be given a practical effect. The degree of supervision must entirely depend upon the task, and it cannot mean that there must always be a constant supervision throughout. There may be times during a demolition falling within Regulation 79 (5) where a particular operation is a dangerous one. That cannot always be avoided, and it may be that the danger is such that the supervisor must give a constant supervision during that time. But there will be other times where the particular operation is a simple one, involving no danger to a building labourer. Then the supervisor may properly go away and perform other tasks. He may

answer the telephone or supervise other groups. All depends on the facts of each case.”

3) *Shriram Krishna Wanmone and 6 Ors. Vs. State of Maharashtra & 3 Ors. Judgment delivered on 13.06.2013 delivered by the Division Bench of the Hon’ble High Court Bombay in W.P. No. 5567 of 2010 (A-8).*

Para no. 1 of this Judgment reads :-

“The Petitioners were appointed to the posts of Livestock Supervisor in the employment of the Government of Maharashtra (first respondent). While the petitioners were in service, they completed two years diploma course in Animal Husbandry and Veterinary Science conducted by the Animal Husbandry Department of the first respondent-State of Maharashtra and they were granted “Diploma in Animal Husbandry and Veterinary Science”.

In para no. 6 of this Judgment the court considered Sections 2 (e), 2 (f), 2 (g), 23, 24 and 30 of the Act and held:-

“Perusal of the first schedule to the said Act of 1984 shows that the Diploma obtained by the Petitioners is not a recognized veterinary qualification within the meaning

of the said Act of 1984. On plain reading of Sub-Section (1) of Section 23 of the said Act of 1984, it is apparent that the names of all persons who possess the recognized veterinary qualifications and who were for the time being enrolled on a State Veterinary Register shall be included in the Indian Veterinary Practitioners Register. Mere enrollment in a State Veterinary Register is not sufficient to attract sub-section (1) of Section 23 of the said Act of 1984 in as much as such person enrolled on a State Veterinary Register must possess the recognized veterinary qualification within the meaning of Clause (g) of Section 2 of the said Act of 1984. In the present case, the petitioners do not possess the recognized veterinary qualification as aforesaid though they are holding a Diploma which is included in the schedule under the said Act of 1971. Therefore, on a plain reading of Sub-section (1) of Section 23 of the said Act of 1984, mere registration in the State Veterinary Register will not give the Petitioners benefit of Sub-section (1) of Section 23 of the said Act of 1984 unless they hold recognized veterinary qualifications.”

The Court then referred to what is held in the case of Udai Singh (supra) and observed:-

“In Paragraph 20 of the decision, the Apex Court noted the contentions raised before it. Relevant part of the paragraph 20 reads thus:

"20. The contention of the writ petitions inter alia is that having regard to the fact that the veterinary practitioners who were possessing 'diploma in veterinary science' or 'certificate in veterinary science' which were recognized by the State of Maharashtra and some other States they could not have been divested of their right to practice by reason of the Central Act on the premise that they having the requisite qualification had a fundamental right in terms of Article 19(1)(g) of the Constitution to carry on veterinary practice or continue to be in the service of the State and any restriction placed on such rights should not only be a reasonable one but also in public interest. The Central Act, insofar as it purports to take away such right to practice or to be continued in service, thus, imposes an unreasonable restriction interfering with their fundamental right inasmuch as the degree holders alone cannot serve the rural areas."

(Underlines added)

13. In Paragraph 21 of the said decision in the case of *Uday Singh Dagar and Others (supra)*, the Apex Court noted the further submissions made before it.

"21. The second leaf of argument both in the writ petition as also in the civil appeal arising out of the SLP is that having regard to the provisions of Section 67 of the Central Act, the provisions of Section 6 of the General Clauses Act having been made applicable, the rights and liabilities accrued prior to coming into force of the Central Act must be held to be saved."

14. In Paragraph 24 of the decision, the Apex Court referred to what is held by this Court in the Writ Petition which shows that the Apex Court was fully aware of what was held by the Division Bench in favour of the Petitioners therein which was not challenged. The Petitioners in Writ Petition before the Apex Court were not degree holders. In Paragraph 69 thereof, the Apex Court held thus:

"69. We are not beset with such a situation in the instant case. The right of the petitioners to practice in the field of veterinary practice has expressly been taken away. When such a right has been taken away upon laying down an essential qualification therefor which the petitioners admittedly do not

possess, the right of the petitioners to continue to practice despite the fact that they do not fulfill the criteria laid down under the Parliamentary Act or the Central Act would not survive."

(Underline supplied)

15. In Paragraph 71 of the decision in the case of Uday Singh Dagar and Others (*supra*), the Apex Court held thus:

"71. For the reasons aforementioned, we respectfully agree with the view taken by the High Court."

26. It was pointed out by Advocate Shri A.C.Dharmadhikari, Id. Counsel for the applicants that in the State of Maharashtra there are Veterinary Dispensaries of Grade – I and Grade- II and from reading of Section 30 of the Act as interpreted by the Hon'ble Apex Court and the Bombay High Court it would be become clear that in a Grade-I Dispensary post of Livestock Development Officer can be filled only by a person who is a Graduate holding a degree as prescribed in the Act, and is a registered Veterinary Practitioner. To further support this submission reliance is placed on G.Rs. dated 18.02.2009, 27.02.2009, 20.02.2009, 17.09.2011, 15.10.2010 (A-9), (A-10), (A-11). Headings of these G.Rs. reads as under:-

18.02.2009:-“वार्षिक योजना २००७-०८ अंतर्गत बिगर आदिवासी सर्वसाधारण योजनेत ९ जिल्हातील २६ पशुवैद्यकिय दवाखाना श्रेणी-२ चा दर्जावाढ करून

त्यांचे रूपांतर पशुवैद्यकीय दवाखाना श्रेणी-१ मध्ये करण्याच्या अनुषंगाने नवीन पदनिर्मिती आणि स्थान निश्चितीबाबत.”

27.02.2009:-“नक्षलग्रस्त भागाचा जलद विकास विशेष कृति कार्यक्रमान्तर्गत गोंदिया जिल्हात सन २००७-०८ मध्ये ४ नवीन पशुवैद्यकीय दवाखाना श्रेणी-१ ची स्थापना करणेबाबत.”

20.02.2009:-“वार्षिक योजना २००७-०८ अंतर्गत बिगर आदिवासी सर्वसाधारण योजनेमध्ये ५ जिल्हात १९ नवीन पशुवैद्यकीय दवाखाना श्रेणी-१ ची स्थापना करणेबाबत”

17.09.2011:-“नवनिर्मिती हिंगोली, वाशिम व नंदुरबार या जिल्ह्यात जिल्हा पशुवैद्यकीय सर्व चिकित्सालयाची स्थापना करण्याबाबत”

15.10.2010:-“वार्षिक योजना सन २००८-०९ अंतर्गत बिगर आदिवासी सर्वसाधारण योजनेत ४ जिल्ह्यात ४३ पशुवैद्यकीय दवाखाना श्रेणी-२ चा दर्जावाढ करून त्यांचे रूपांतर पशुवैद्यकीय दवाखाना श्रेणी-१ मध्ये करण्याच्या अनुषंगाने नवीन पदनिर्मिती आणि स्थान निश्चितीस मंजूरी प्रदान करणे बाबत.”

The G.R. dated 18.02.2009 further states:-

“भारतीय पशुवैद्यकीय अधिनियम १९८४, राज्यात दिनांक १ ऑगस्ट, १९९७ पासून लागू करण्यात आला. त्यातील शिफारशीनुसार पशुवैद्यकीय सेवा ह्या पदवीधर पशुवैद्यकामार्फतच देणे अपेक्षित आहे. त्यामुळे राज्यात अस्तित्वात असलेले श्रेणी - २ चे पशुवैद्यकीय दवाखाने/पशु प्रथमोपचार केंद्रांचा टप्पाटप्प्याने दर्जावाढ करून त्यांचे रूपांतर श्रेणी-१ च्या पशुवैद्यकीय दवाखानामध्ये करण्याचे शासनाचे धोरण आहे. पशु प्रथमोपचार केंद्रांचा दर्जावाढ केल्याने या संस्थेत पदवीधर पशुधन विकास अधिकारी वर्ग-अ हे पद निर्माण होवून त्यांच्यामार्फत शेतकरी/ गोपालक यांना आधुनिक पशुवैद्यकीय सेवा उपलब्ध होवू शकेल.”

The G.R. dated 27.02.2009 contains following details:-

“त्यानुसार गोंदिया जिल्ह्यामध्ये श्रेणी-१ च्या चार नवीन पशुवैद्यकीय दवाखान्यांसाठीच्या आवश्यक पदनिर्मितीस खालील प्रमाणे याद्वारे शासन मान्यता प्रदान करण्यात येत आहे.

अ. क्र.	पदनाम	वेतनश्रेणी	एका दवाखान्यासाठी आवश्यक पदे	चार दवाखान्यासाठी आवश्यक पदे
१	पशुधन विकास अधिकारी, वर्ग-अ	रु. ८०००-२७५-१३५००/-	१ पद	४ पदे
२	वणोपचारक, वर्ग-ड	रु. २६१०-६०-२९१०-६५-३३००-७०-४०००/-	१ पद	४ पदे
३	परिचर वर्ग-ड	रु. २५५०-५५-२६६०-९०-३२००/-	१ पद	४ पदे
एकूण			३ पदे	१२ पदे

गोंदिया जिल्ह्यात नव्याने स्थापन करावयाच्या श्रेणी-१ च्या ४ पशुवैद्यकीय दवाखान्यांच्या खाली नमुद केल्याप्रमाणे स्थाननिश्चितीसही याद्वारे शासन मान्यता प्रदान करण्यात येत आहे.”

In G.R. dated 20.02.2009 there is a table showing that to man three grade one Veterinary Dispensaries, three posts of Livestock Development Officer, Group-A were created and sanctioned. The G.R. states:-

“नव्याने स्थापन करावयाच्या पशुवैद्यकीय दवाखाना श्रेणी-१ साठी मंजूर आराखडयानुसार प्रती दवाखाना एक याप्रमाणे पशुधन विकास अधिकारी, वर्ग-अ, वणोपचारक आणि परिचर, वर्ग-ड अशी एकूण ३ पदे निर्माण करणे आवश्यक असल्याने त्याबाबत व नवीन दवाखान्यांच्या स्थाननिश्चिती संदर्भात खालील प्रमाणे शासन निर्णय निर्गमित करण्यात येत आहे.”

In G.R. dated 17.09.2011 following details are given in respect of newly created posts:-

“नवीन पदनिर्मितीचा तपशिल”

अ. क्र.	नवनिर्मित पदाचे पदनाम	पदाची वेतनश्रेणी	एका जिल्हा पशुवैद्यकीय सर्व चिकित्सालयासाठी मंजूर करावयाची पदे	तीन जिल्हा पशुवैद्यकीय सर्व चिकित्सालयासाठी मंजूर करण्यात येत असलेली पदे
१	पशुधन विकास अधिकारी, गट-अ	रु. १५६००-३९१०० + ग्रेड पे रु. ५४००/-	२	६
२	सहाय्यक पशुधन विकास अधिकारी, गट -क	रु.५२००-२०२०० + ग्रेड पे रु. २८००/-	१	३
३	कनिष्ठ लिपिक तथा टंकलेखक, गट -क	रु.५२००-२०२०० + ग्रेड पे रु. १९००/-	१	३
४	वाहनचालक, गट -क	रु.५२००-२०२०० + ग्रेड पे रु. १९००/-	१	३
५	व्रणोपचारक, गट -ड	रु.५२००-२०२०० + ग्रेड पे रु. १८००/-	२	६
६	परिचर, गट-ड	रु.४४४०-७४४०+ ग्रेड पे रु. १३००/-	१	३
एकूण			८ पदे	२४ पदे

G.R. dated 15.12.2010 was issued for this purpose. It states:-

“मा. उच्चस्तरीय सचिव समितीच्या दिनांक १९.११.२००८ रोजी पार पडलेल्या ५० व्या सभेत उपरोक्त प्रमाणे ४३ श्रेणी-२ च्या पशुवैद्यकीय दवाखान्यांचा दर्जावाढ करण्यासाठी आवश्यक असलेले ४३ पशुधन विकास अधिकारी वर्ग-अ ची नवीन पदे निर्मिती करण्यास मान्यता प्रदान केलेली आहे.”

27. The impugned G.R. dated 08.03.2019 is at A-12. Its heading is as under:-

“सहाय्यक पशुधन विकास अधिकारी (गट-क) या पदावरून पशुधन विकास अधिकारी (गट-ब) या पदावर पदोन्नती देण्याबाबत”

It further states :-

“शासन आदेश-

पशुसंवर्धन विभागातील सहाय्यक पशुधन विकास अधिकारी (गट-क)(वेतनश्रेणी रु. ४२०० - २०२२० ग्रेड पे रु. २८००/-) या संवर्गात कार्यरत असलेल्या खालील विवरणपत्रात नमूद कर्मचा-यांना पशुधन विकास अधिकारी (गट-ब) (वेतनश्रेणी रु. ९३००-३४८००/- ग्रेड पे. ४४००/-) या पदावर तात्पुरती पदोन्नती देण्यात येत असून प्रशासकीय कामकाजाच्या सोईच्या दृष्टीने पदोन्नतीनंतर त्यांची पदस्थापना स्तंभ क्र. ४ येथे नमूद ठिकाणी करण्यात येत आहे.”

This G.R. shows that Assistant Livestock Development Officers, Group-C were promoted to the post of Livestock Development Officers, Group-B and posted at Grade-I Veterinary Dispensaries. Grievance of the applicants is that this could not have been done in view of the rulings of the Apex Court, Bombay High Court, Section 30 of the Act and various G.Rs. mentioned above.

28. On the basis of above referred G.Rs. it was submitted by Advocate Shri A.C.Dharmadhikari that following conclusions would be inescapable:-

“There are three posts in the Grade-I Dispensary.

- I. *Livestock Development Officer, Group-A.*
- II. *Dresser which is in Group-'D'.*

III. *Attendant which is also a Group-'D' post.*

Thus, there can be only one Livestock Development Officer Group-A who has to be a graduate and a registered Veterinary Practitioner. Non-Graduate or non-registered Veterinary Practitioner can never be appointed on these posts. As such employee can only render minor veterinary services."

29. Further contention of the applicant is as under:-

From the Government Resolution dated 25th May, 2004 the Livestock Development Officer, Group-B post who were then existing were up-graded to Livestock Development Officer, Group-A post and thus no post of Livestock Development Officer, Group-B remained in existence. The only post that remained in existence was Livestock Development Officer, Group-A and Assistant Directors Livestock Development Officers, Group-C who were non-graduate and unregistered veterinary practitioners.

30. The applicants have relied on G.R. dated 16.03.2018 (A-C-A-1) to contend as under:-

"From the orders of continuation from 16.03.2018 onwards gradation, extension of post it is clear that in these extension orders there is not a single post of Livestock

Development Officer, Group-A which shows that the said post has been abolished and does not survive.”

31. According to the applicants, the position reflected in G.R. dated 16.03.2018 ought to have been accepted by the department but instead the impugned order is passed. The applicants apprehend that the impugned order would have the following effect:-

“Respondents/ Government is illegally promoting the Group-C officer to Group-B which does not exist in a Grade-I dispensary, meaning thereby that under the garb of this illegal order these promoted officers will occupy the post of Livestock Development Officer, Group-A which is meant only for graduate and Registered Veterinary Practitioners. None of the respondent nos. 3 to 127 are either graduate or Registered Veterinary Practitioner and therefore they cannot be allowed to hold such post under the garb of illegal promotion order, hold the post of Livestock Development Officer, Group-A.

None of this Grade-I Dispensary on which the respondent nos. 3 to 127 are promoted there is a Livestock Development Officer, Group-A working and those posts are kept vacant. Instead of filling up those posts namely that of Livestock Development Officer, Group-A, the defendant State is promoting the respondent nos. 3 to 127 on these posts and are allowing

them to work as Livestock Development Officer, Group-A, to which they are not eligible.”

32. Notification dated 08.08.2019 issued by the respondents State is at page 709. It reads as under:-

“उपरोक्त संदर्भिय विषयास अनुसरून आपणांस कळविण्यात येते की, भारतीय पशुवैद्यकीय परिषद अधिनियम १९८४ (कं. व्हीईटी-१०९३/केनं ३१२, भाग-२/९६/पदुम-३, भारतीय पशुवैद्यकीय परिषद अधिनियम १९८४ (१९८४ चा ५२)) कलम ३० च्या उपकलम खंड ३०-ब च्या परंतुकान्वये व कलम ५७ द्वारे प्रदान करण्यात आलेल्या अधिकाराचा वापर करून महाराष्ट्र शासन, पशुसंवर्धन आयुक्तालय किंवा खालील पैकी कोणत्याही एका भारतीय पशुवैद्यकीय संस्थेकडून पशुधन पर्यवेक्षक, स्टॉकमन, स्टॉक असिस्टंट, सहाय्यक पशुधन विकास अधिकारी किंवा पशुधन विकास अधिकारी गट-ब (बिगर पदवीधर) ही पदविका किंवा प्रमाणपत्र धारण करणा-या व्यक्तीय पदवीधर नोंदणीकृत पशुवैद्यकीय व्यवसायीकांच्या पर्यवेक्षणाखाली व निर्देशाखाली किरकोळ पशुवैद्यकीय सेवा देण्यासाठी परवानगी देण्यात आली आहे.

संदर्भ क्रमांक २ च्या अधिसूचनेनुसार संदर्भ क्रमांक १ च्या अधिसूचनेतील खंड (१७) ही सेवा वगळण्यात आली आहे म्हणजेच कृत्रिम रेतन करणे वा पाठपूरावा करणे व त्या संबंधीचे अभिलेखे ठेवणे या संबंधातील किरकोळ पशुवैद्यकीय सेवा वगळणे बाबतची सुधारणा करण्यात आली आहे.

संदर्भ क्रमांक ३ नुसार अधिसूचनेतील (१९८४ चा ५२) चे कलम ३० च्या उपकलम खंड ३०-ब अंतर्गत याबाबतचे संदर्भ क्रमांक १, २ साठी दिलेल्या स्पष्टीकरणानुसार पदविका किंवा प्रमाणपत्र धारकांनी करावयाच्या विनिर्दिष्ट सेवा या नोंदणीकृत पदवीधर पशुवैद्यक व्यावसायीकांच्या प्रत्यक्ष उपस्थितीतच करावयाच्या आहेत असे नाही. आवश्यकतेनुसार [पदविका/प्रमाणपत्र](#) बाळगणा-या व्यक्तींनी नोंदणीकृत पदविधर पशुवैद्यक व्यावसायीकांशी दुरध्वनी/ भ्रमणदुरध्वनी व अन्य संपर्क माध्यमातून

संपर्क साधून आवश्यक त्या किरकोळ पशुवैद्यक सेवा (Minor Veterinary Services) पशुपालकाना उपलब्ध करून द्यावयाच्या आहेत. मात्र या नोंदणीकृत पदवीधारक पशुवैद्यकीय व्यावसायीकांचे पदविका/ प्रमाणपत्र धारकांना नियतकालीक (Periodic) पर्यवेक्षण व मार्गदर्शन मात्र उपलब्ध असावे असे अभिप्रेत आहे.

संदर्भ क्रमांक ५ नुसार शासनाने १२५ विंगर पदवीधारक पशुवैद्यकीय दवाखान्यांवर पदस्थापना दिलेली आहे, त्यांना नजीकच्या उपकेदांवर कार्यरत असलेल्या नोंदणीकृत पदवीधर पशुवैद्यकीय वरिल शासनाने संदर्भ क्रमांक १ ते ४ च्या अधिसूचना/ परिपत्रकानुसार पर्यवेक्षण व मार्गदर्शन करावयाचे आहे.

तेव्हा उपरोक्त प्रमाणे बिंगर पदवीधारक पशुवैद्यक (पशुधन विकास अधिकारी गट-ब) यांना पदवीधर पशुवैद्यक (पशुधन विकास अधिकारी गट- अ) यांनी वरीलप्रमाणे पर्यवेक्षण व मार्गदर्शन करावे व त्यानुसार आपले कर्तव्य पार पाडावे व आपले कार्यक्षेत्रातील पशुवैद्यकीय संस्थांचा आकृतीबंध विचारात घेवून या नुसार आपलेस्तरावर वेळोवेळी आवश्यक त्या सुचना निर्गमित कराव्यात.”

The applicants have assailed this notification on the ground that it blatantly violates statutory provisions, binding precedents and earlier G.Rs.

It is a matter of record that by virtue of the order of status-quo passed by this Tribunal the impugned order has not been implemented.

33. Another contention raised by the applicants is as follows:-

“The so called diploma courses which the respondent nos. 1 & 2 are trying to refer of an eligibility to be promoted in the post of Group-A, is already abolished and there is no such diploma in existence. The Diploma as alleged by the respondent

nos. 3 to 127 is not the same diploma and therefore none of them are qualified to be promoted and that too on a post which is not in existence. The respondents are trying to take the shelter of 2014 Recruitment Rules for defending the promotion when the Group-B post is not in existence. If the respondents want to give effect to the 2014 Recruitment Rules they must create the post of Livestock Development Officer, Group-B which is presently not in existence in Group-I Dispensary, The Recruitment Rules cannot be implemented for non existing posts.”

34. One more contention raised by the applicants is as follows:-

“The concept of supervision is totally misinterpreted by the respondents, supervision cannot mean being posted in one dispensary and supervise in the other. The concept of supervision and vigilance has to be one and the same and unless and until Livestock Development Officer, Group-A is actually posted in the Grade-I Dispensary such supervision is not possible.”

35. Affidavit-in-reply of the respondent nos. 1 & 2 and Annexures attached to it are at pages 159 to 240. Respondents 1 & 2 rely on the following chronology to substantiate their contention that the impugned order suffers from no infirmity and, therefore, it has to be sustained:-

“1. *Recruitment Rules of 1988 were made applicable w.e.f. 01.04.1981.*

2. *Earlier, in Animal Husbandry Department there was only one cadre of Livestock Development Officer, Class-II. There was no bifurcation as Group-A and Group-B.*

3. *By the Maharashtra Civil Services (Revised Pay) Rules, 1988 Pay Scale of Rs. 2000-3500/-(as per 4th pay commission) has been revised to Rs. 6,500- 10,500/- (as per 5th pay commission):-*

4. *By Government notification dated 20.03.1999, the pay scale of LDO (Graduate) has been revised from earlier pay scale of Rs. 6500-10500 to Rs. 8000-13500 and for others the earlier pay scale of Rs. 6,500-10,500/- was continued.*

5. *25.05.2004:- Reconstruction of Cadre whereby-*

(i) LDO Group-B with pay scale of Rs.8,000-13,500/- included in Group-A as their pay scale was same as that of Assistant Director, Group-A.

(ii) LDO Group-B with pay scale of Rs. 6,500-10,500/- continued to remain in Group-B.

Thus, there are two distinct cadres:-

(i) LDO Group 'A' (Graduate) with pay scale of Rs. 8,000 – 13,500/- and

(ii) *LDO Group-B (Non Graduate) with pay scale of Rs. 6,500 – 10, 500/-”*

6. *25.08.2009:- Pay scale revised:-*

(i) *LDO (Graduate) Group-A from Rs.8,000 – 13,500/- to pay Band Rs. 15,600-39,900 and Grade Pay Rs. 5400/-*

(ii) *LDO (Non Graduate) Group-B From Rs. 6,500-10,500 to Pay Band Rs. 9,300 – 34,800/- and Grade Pay Rs. 4,400/-*

7. *29.10.2014:- Government notification framing:-*

“Livestock Development Officer Group-B (Gazetted) in the Commissionerate of Animal Husbandry Department under the administrative control of Agriculture, Animal Husbandry Development and Fisheries Department (Recruitment) Rules, 2014 (in short 2014 Rules)”

36. By relying on the aforementioned chronology of written arguments respondents 1 & 2 contend as follows :-

➤ *“The applicability and validity of Section 30 and concept of ‘Minor Veterinary Services’ to be rendered by the person holding Diploma or Certificate under the supervision and direction of a registered Veterinary Practitioner as explained through various Judgments rendered by Hon’ble High Courts*

and the power of State Government to issue order to permit to do so is not in dispute.

➤ *The effect of rules, pay scales, revision of pay scales, duties leading to the formation and reconstruction of various cadres more particularly the cadres which are subject matter to this original application is duly explained by respondents 1 & 2 through affidavits, pursis and documents filed on record. The theory invented by the applicants that cadre of LDO Group B does not exist is absolutely incorrect and absurd.*

➤ *Immediately after 01.08.1997 when The Indian Veterinary Council Act, 1984 was applied to the State of Maharashtra, on 26.08.1997 (page 239), the State of Maharashtra issued order granting permission to Diploma/ Certificate holder to render minor veterinary services under the supervision and direction of registered Veterinary Practitioner.*

➤ *The State Government also issued notification in the official gazette (page 738-filed by applicant themselves) specifying for "other types of primary aid for the ailment" as contemplated under explanation to Section 30 of The Indian Veterinary Council Act, 1984.*

➤ *The State Government and/ or the Commissionerate, Animal Husbandry Department from time to time issued*

circulars for effective implementation of the aforesaid concept of supervision and direction by registered Veterinary Practitioners to Diploma/ Certificate holders for rendering minor veterinary services.

➤ *The respondents 1 & 2 while posting a Diploma or Certificate holder at a particular dispensary also issued order attaching them to the particular dispensary and/ or with registered Veterinary Practitioner.*

➤ *In so far as present matter is concerned, by order dated 08.08.2019 the respondent no. 2 attached and assigned the respondent nos. 3 to 127 (Non Graduate, Diploma/ Certificate holders) to particular dispensary and/ or LDO Group-A (Degree holder) for the purpose of supervision and direction for rendering the minor veterinary services.*

➤ *Thus, respondent nos. 1 & 2 have duly complied with the requirements of Section 30 more particularly Proviso & explanation thereof viz-*

(i) Issuance of order permitting a person holding a Diploma/ Certificate to render minor veterinary services under the supervision and direction of registered Veterinary Practitioner

- (ii) *Issued notification in official gazette specifying other types of primary aid or the treatments which can be said as 'minor veterinary services' in addition to specifically defined minor veterinary services in the explanation to said Section 30 of The Indian Veterinary Council Act, 1984.*
 - (iii) *From time to time issued directions/clarifications to effectively implement the concept of supervision and direction as above.*
 - (iv) *Issued specific order assigning and attaching Diploma/ Certificate holders to the registered Veterinary Practitioner (Degree holder) for the purpose of supervision and direction as contemplated under Section 30 of the Indian Veterinary Council Act, 1984.*
 - (v) *Issued specific order attaching and assigning respondent nos. 3 to 127 (Diploma/ Certificate holders) to LDO Gr. I for the purpose of supervision and direction.*
- *The respondent nos. 3 to 127 possess relevant diploma/ certificate and fulfill all conditions as per 2014 Rules.*

- *The respondents 3 to 127 in their reply undertook that they shall render only minor veterinary services under supervision as required.*
- *On the contrary the applicants (Degree Holders) want to defy the statutory directions by denying to perform the duty of rendering supervision and direction to the Diploma/Certificate holders for performing minor veterinary services.*
- *The impugned promotion order was perfectly legal, correct and proper qua 2014 rules.”*

37. Respondents 1 & 2 have also relied on the notification dated 14.03.2007 (at pages 738 to 754). Heading of this notification reads as under:-

“पशुवैद्यकीय संस्थांच्या सेवांची व्याप्ती व मर्यादा आणि उपचार व उपचारासंदर्भाने मार्गदर्शन व सहाय्य याकरिता तसेच रोग निदान चाचण्यांच्या संदर्भाने वरिष्ठ श्रेणीच्या पशुवैद्यकीय संस्थांकडे संदर्भ करण्यासाठी मार्गदर्शक तत्त्वे.”

38. To further support their contention respondents 1 & 2 have relied on the notification dated 27.08.2009 (at pages 239). This notification reads as under:-

“भारतीय पशुवैद्यक परिषद अधिनियम, १९८४-

क्रमांक आयव्हीसी १००६/प्र.क.४३२/पदुम-४- भारतीय पशुवैद्यक परिषद अधिनियम १९८४ (१९८४ चा ५२) यांच्या कलम ३० च्या खंड (ख) च्या परंतुकाद्वारे व कलम ५७ द्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन, याद्वारे

पशुसंवर्धन संचालनालय किंवा खालील पैकी कोणत्याही एका भारतीय पशुवैद्यकीय संस्थेकडून पशुधन पर्यवेक्षक, स्टॉकमन, स्टॉक असिस्टंट, सहाय्यक पशुधन विकास अधिकारी किंवा पशुधन विकास अधिकारी (गट-ब) बिगर पदवीधर यांची पदविका किंवा प्रमाणपत्र धारण करणा-या व्यक्तीस, नोंदणीकृत पशुवैद्यक व्यवसायीच्या पर्यवेक्षणाखाली व निर्देशनाखाली किरकोळ पशुवैद्यकीय सेवा देण्यासाठी परवानगी देण्यात येत आहे-

वरील परिच्छेदात नमूद केलेल्या संस्था खालीलप्रमाणे आहेत-

१. मुंबई प्रांतात त्यावेळी देण्यात आलेले पशुवैद्यकीय स्टॉकमन प्रशिक्षण अभ्यासक्रम
२. पशुसंवर्धन विभाग, महाराष्ट्र शासन आणि राज्यातील विविध संविधानिक कृषि विद्यापीठ यांनी चालविलेला पशुधन पर्यवेक्षक अभ्यासक्रम
३. पशुसंवर्धन विभाग, महाराष्ट्र शासन यांनी चालविलेला पशुवैद्यक व पशुसंवर्धन विज्ञान यामधील दोन वर्षांची सेवांतर्गत पदविका अभ्यासक्रम आणि
४. महाराष्ट्र तंत्र शिक्षण परीक्षा मंडळ आणि राज्यातील विविध संविधानिक कृषि विद्यापीठ या संस्थानी पशुवैद्यकीय शास्त्र विषयांसह चालविलेला दुग्धशाळा व्यवस्थापन व पशुसंवर्धन पदविका यामधील दोन वर्षांचा पदविका अभ्यासक्रम.”

39. Reply of respondents 3 to 127 is at pages 424 to 495. They have resisted the application on the following grounds:-

1. The applicants have, by mixing two distinct issues resulting in two separate causes of action viz. promotion and posting of these respondents, have created confusion. So far as issue of promotion of these respondents is concerned, the applicants ought not to have any grievance. So far as the issue of their posting as in-charge of Veterinary Dispensary, Grade-I is concerned, challenge of the applicants that such posting

should be given only to Livestock Development Officer of Group-A is misconceived.

2. Promotion of the respondents 3 to 127 to the post of Livestock Development Officer, Group-B is solidly founded on “Livestock Development Officer, Group-B (Gazetted) in the Commissionerate of Animal Husbandry Department under the Administrative Control of Agriculture, Animal Husbandry, Dairy Development and Fisheries Department (Recruitment) Rules, 2014. Therefore, reliance of the applicants on Recruitment Rules of 1988 is completely misplaced. Rule 2 (vi) of Rules of 2014 reads as under:-

“2. In these rules, unless the context requires otherwise-

*i) *****

*ii) *****

*iii) *****

*iv) *****

*v) *****

vi) “Livestock Supervisors Diploma Course” means the Livestock Supervisors Training Course conducted by the Commissionerate of Animal Husbandry or by any statutory Agricultural University or an

equivalent University in the State of Maharashtra and it includes the diploma course in the "Dairy Farm Management and Animal Husbandry" conducted by Maharashtra State Board of Technical Education or a statutory Agricultural University or an equivalent University in the State of Maharashtra and diploma course in the "Livestock Management and Dairy Production" conducted by Maharashtra Animal & Fishery Science University, Nagpur.

vii) ****

Rule 3 (a)(iii) reads as under:-

3. Appointment to the post of Livestock Development Officer, Group-B (Gazetted) shall be made, either.

(a) By promotion of a suitable person on the basis of seniority subject to fitness from amongst the persons holding the post of Assistant Livestock Development Officer, in the Animal Husbandry Department and fulfilling following conditions-

*(i)*****

Or

*(ii)*****

Or

(iii) have completed not less than three years regular service in that post and passed Livestock Supervisors Diploma Course and completed continuous service for not less than twenty years in the Animal Husbandry Department.

These Rules show that even Diploma holding Veterinarians are also eligible and qualified to be promoted to the post of Livestock Development Officer, Group-B under the Rules of 2014.

It is not in dispute that Respondent nos. 3 to 127 are holding the necessary Diploma prescribed under the Rules of 2014. They also possess requisite experience of three years as Assistant Livestock Development Officer. They have, in addition, served for more than 20 years.

3. Following historical background will be useful in resolving the controversy:-

“In the year 1988, that means prior to commencement of the Indian Veterinary Councils Act 1984 in the State of Maharashtra, there was only one cadre of Livestock Development Officer which was known as Livestock Development Officer in Maharashtra animal

husbandry service Class II in the animal husbandry Department under the agriculture and cooperation Department of the government of Maharashtra. At that time there was no such division as Group-A or Group-B cadre for Livestock Development Officer cadre. It was just Class II service. In other words all the Livestock Development Officers fell in what is today called Group B. It is also worthwhile to note that at that time, because the Indian Veterinary Councils Act 1984 was not applicable there was no restriction on the diploma holders to render veterinary services and no such division as “veterinary services” and “minor veterinary services” existed. As far as issue of appointment by way of promotion and nomination to the post of Livestock Development Officer is concerned, it was governed by 1988 Recruitment Rules which the Applicants have already placed on record (page 55 of the paper book) The appointments were to be made in the ratio of 15:85 respectively, meaning that 15% posts were to be filled up by promotion and 85% posts were to be filled up by nomination.

In the year 1988 i. e. in 4th Pay Commission Revision all the posts of Livestock Development Officers

which were in class II (i.e. Group B posts) [which included Graduate Veterinarians in 85% quota as indicated in Rule 5 read with Rule 4(B) of 1988 Recruitment Rules and also Non-Graduate staff in 15% quota as indicated at Rule 5 read with Rule 4(A) of 1988 Rules] carried the same pay scale in 4th pay commission division, of 2000-3500.

Then came the year 1997. On 23 July 1997 the state of Maharashtra adopted the Indian Veterinary Councils Act 1984 by notification under article 252 (1) of the Constitution of India. This Act commenced its operation in the state of Maharashtra with effect from 1 August 1997. Section 30 of the said Act prohibited any person other than a registered veterinary practitioner to perform the functions stated therein in clauses a, b, c and d of the said section. However Proviso to Section 30 (b) and explanation to the Proviso empowered the state government to permit a person holding diploma or certificate to render under the supervision and direction of the registered veterinary practitioner what is called "minor veterinary service". The explanation to the said Proviso empowered the government to issue a notification in the official Gazette to specify what shall be minor veterinary services.

*Accordingly the government of Maharashtra firstly issued notification dated 26 August 1997, which was later on superseded by another notification dated 27 August 2009 which is currently holding the field and which specifies minor veterinary services to be rendered by diploma holders. A true copy of the notification dated 27 August 2009 is annexed hereto and marked as **ANNEXURE NO. R-3-B.***

In the year 1998, 5th pay commission revision was made applicable. Initially the pay scale of the post of Livestock Development Officers who were in the pay scale of 2000 – 3500 in 4th pay commission [which included Graduate Veterinarians in 85% quota as indicated in Rule 5 read with Rule 4(B) of 1988 Recruitment Rules and also Non-Graduate staff in 15% quota as indicated at Rule 5 read with Rule 4(A) of 1988 Rules] was revised to 6500-10,500 vide MCS (Pay) Rules 1998 dated 10 December 1998.

Then an important development occurred in March 1999. Vide notification dated 20 March 1999 (Annexure R-3 to the reply of the government at page 206) pay scale of Graduate Veterinarians working in the cadre of

Livestock Development Officers was revised to 8000 – 13500. The other promotion quota holders were continued at the pay scale of 6500 – 10500. Although classified on the basis of pay scales in such manner yet all these officers were placed in the cadre of LDO, Group – B Mah. Animal Husbandary Service Class – II till GR dated 25 May 2004.

Then on 25 May 2004 a government resolution was issued revising the staffing pattern in the animal husbandry department of the government of Maharashtra. At that time the cadre of Livestock Development Officers Class – II (which was also known as Group B cadre then) was bifurcated according to the pay-scales carried by those posts into two:

- the Livestock Development Officers with pay scale of 8000-13,500 (graduates) and*
- the Livestock Development Officers with pay scale of 6500-10,500 (non-graduates).*

Since the pay scale of graduate officers was same as that of the pay scale of another Group A cadre posts viz. Assistant Director of Animal Husbandry which fell in Group A, the government resolved to merge the posts of the Livestock Development Officers carrying pay scale of 8000-

13,500 (graduates) Group B into Group A cadre. The posts of Livestock Development Officers with lesser pay scale of 6500-10,500 (non-graduates) continued to remain in Group B cadre. This is how on the basis of higher and lower pay-scales, though the nomenclature of the post remains the same i.e. "Livestock Development Officer", the posts are divided in Group A and Group B. The quota of direct recruits for the posts of Livestock Development Officers Group A and that of promotees LDOs Group B remains the same i.e. 85% for LDO Group A (graduates) by direct recruitment and 15% for LDO Group B (non-graduates) by promotion.

With such bifurcations of the cadres of Livestock Development Officers into Group A which is a class I post and Group B which is a class II post (which also included non-graduates Livestock Development Officers as that of Respondents No. 3 to 127), as stated above, it was thought proper to have separate Recruitment Rules for Livestock Development Officers Group B by providing avenues of promotion for them. Therefore his Excellency the honourable Governor of Maharashtra in exercise of the powers conferred on him by article 309 of the Constitution

of India framed Recruitment Rules of 2014 which are placed by the respondents before this honourable tribunal.”

4. A perusal of the Recruitment Rules of 2014 will reveal that nowhere these Recruitment Rules of 2014 permit a non-graduate promotee Livestock Development Officer to render veterinary services in a way other than as permitted by Proviso to section 30 (b) of the Indian Veterinary Councils Act 1984. The Respondents submit that the bar of section 30 of the Indian Veterinary Councils Act 1984, and the restricted permitted area within which diploma holders can render minor veterinary services as per the Proviso of section 30(b) continues to operate. Hence the Recruitment Rules of 2014 cannot be said to be contradictory to the provisions of Indian Veterinary Councils Act 1984.

5. Respondents 3 to 127 have worked on the post of Assistant Livestock Development Officer for years together. They were stagnating. Benefits of time bound promotion were extended to them. Thus, they were rightly promoted to the post of Livestock Development Officer, Group-B as per Rules of 2014.

6. The Judgments of the Apex Court and the Bombay High Court on which the applicants want to rely *inter allia* reiterate

the legal position that Diploma holders can render only minor Veterinary services as per the proviso to Section 30(b) of the Act of 1984. In these Judgments it is nowhere held specifically that a Livestock Development Officer, Group-B cannot be posted in Grade-I Veterinary Dispensary.

7. Veterinary Dispensaries are graded only on the basis of cattle population. If cattle population is upto 3000 the dispensary is graded as Grade-II. If cattle population is between 3000 to 5000 the dispensary is graded as Grade-I Dispensary. Except this there is not much difference between the two.

8. Grade-I Dispensaries render a number of Non-Veterinary Services like:-

- *Extension and propaganda of developmental schemes.*
- *Collection and processing of applications under various government schemes.*
- *Imparting animal husbandry-related training to farmers.*
- *Artificial insemination to cows and buffaloes.*
- *Implementation of schemes for the genetic improvement of livestock, for the development, poultry*

development, sheep and goat development, pig development.

- ***To carry out livestock census and implement scheme of livestock insurance.***
- ***Distribution of fodder seeds and sets.***

9. Respondent no. 3 to 127 have given undertaking that they will render minor Veterinary Services in Grade-I Dispensary strictly under the supervision and as per direction of a registered Veterinary Practitioner.

10. The concept of Supervision and direction of a registered Veterinary Practitioner cannot in the instant case be stretched to mean constant personal presence of a registered Veterinary Practitioner in the Dispensary. The degree of supervision must entirely depend upon the task and it cannot mean that there must always be a constant supervision throughout. The degree of supervision depends on the facts of each case.

11. In W.P. No. 2360/2007 (supra) it is observed:-

“In any case this is a matter which can be rectified through administrative means.”

These observations were made in the context of devising modalities of supervision and issuing directions for

smooth functioning of Grade-I Dispensaries. Aid of advanced technology like Internet, Skype, Video Conferencing, Whatsapp etc. can be taken for supervision and issuing directions as well.

12. Even a Group-B Livestock Development Officer can be posted in a Grade-I Dispensary.

13. Rule 3 of Rules of 2014 shows that respondents 3 to 127 have been legally promoted to the post of Livestock Development Officer, Group-B.

14. In this case respondents 3 to 127 are promoted to the post of Livestock Development Officer, Group-B and posted in Grade-I Dispensary which is permissible under the Rules of 2014. They are not appointed to the post of Livestock Development Officer, Group-A.

15. It is a misconception that only Livestock Development Officer, Group-A can be appointed and posted at Grade-I Dispensary.

16. G.Rs. dated 18.02.2009, 27.02.2009, 15.10.2010 and 17.09.2011 specifically deal only with Grade-I Dispensaries mentioned therein. They cannot, and do not, have general application.

17. Without at all violating provisions of the Proviso to Section 30 (b) of Indian Veterinary Councils Act 1984 which permits the diploma holder officers only to render minor veterinary services, the post of Livestock Development Officers Group B in Grade-I Veterinary Dispensaries can very well be manned by such Group B officers. The manner in which this can be done has already been explained in the body of the reply. Therefore there is no prejudice to the interest of either farmers or animals to which Grade-I Veterinary Dispensaries cater. It is not true that the lives of animals will be put at risk because of posting of the Respondents No. 3 to 127 to such Grade-I Dispensaries. It is specifically denied that public good and interest of the family welfare will be jeopardised as is being wrongly contended.

40. On consideration of rival pleadings and submissions, Rulings and various G.Rs. following principles can be culled out and conclusions drawn:-

"1. By notification dated 23.07.1997 (A-4) the Indian Veterinary Council Act, 1984 was made applicable to the State of Maharashtra w.e.f. 01.08.1997.

2. Veterinary Services in terms of Act of 1984 are in two parts:-

- i. *Veterinary Services; and*
- ii. *Minor Veterinary Services.*

3. *By virtue of adoption/application of the Act of 1984 to the State of Maharashtra those who are not otherwise entitled to resort to Veterinary Practices under the said Act can only perform minor Veterinary Services.*

4. *Explanation to Section 30 (b) of the Act of 1984 defines "Minor Veterinary Services". This right is conferred by the Act on persons having lesser qualification like a diploma.*

5. *In terms, Section 30 of the Act of 1984 does not bar those who are not registered and cannot be registered, such as Diploma holders from holding any office other than that of the Veterinary Physician and Surgeon. They can perform duty referable to Minor Veterinary Services specified in the explanation to Section 30 (b) of the Act.*

6. *The Hon'ble Supreme Court did not consider, and indeed was not called upon to consider in the case of Udai Singh, the question whether such non-graduate Veterinary Practitioner can be appointed to render Minor Veterinary Services under supervision and direction of registered Veterinary Practitioner as contemplated by the proviso and explanation to Section 30*

of the Act (held in the case of Maharashtra State Veterinary Council - supra).

7. *Under the proviso to Section 30 of the Act what is contemplated is that the said person must work under the vigilance of, and, as it were, under the guiding eyes of registered Veterinary Practitioner.*

8. *The word "Supervision" is not of precise import and when not limited by the context is broad enough to cover more than one subject. It implies oversight and direction especially as an officer vested with such authority.*

9. *Control is the act of superintending; care and foresight for the purpose of directing and with authority to direct; power or authority to direct or restrain; restraining or directing influence; regulating power.*

10. *The degree of supervision must entirely depend upon the task, and it cannot mean that there must always be a constant supervision throughout.*

11. *Submission made on behalf of the applicants is that a Grade-I Dispensary post of Livestock Development Officer can be filled only by a person who is a Graduate as prescribed in the Act of 1984, and is a registered Veterinary Practitioner. If this submission is accepted, necessary corollary would be that*

persons like Respondents 3 to 127 who have been promoted to the post of Livestock Development Officer, Group-B can never be posted at Grade-I Dispensary. There is nothing in the Act of 1984 or the relevant recruitment rules which creates such embargo.

12. G.Rs. dated 18.02.2009, 27.02.2009, 20.02.2009, 17.09.2011 and 15.10.2010 inter alia refer to setting up Grade-I Dispensaries and upgrading Grade-II Dispensaries as Grade-I Dispensaries. These G.Rs. further refer to creation of posts of Livestock Development Officer, Group-A on account of setting up of or upgradation to Grade-I Dispensaries. None of these G.Rs. takes into account the contingency that has arisen due to the impugned order dated 08.03.2019 promoting and posting Livestock Development Officers (From Group-C to Group-B) to Grade-I Dispensaries. Therefore, validity of the impugned order will have to be tested in the light of Section 30 of the Act 1984, Recruitment Rules of 2014 and notification dated 08.08.2019 prescribing modalities for effective implementation of the impugned order dated 08.03.2019.

13. The respondents are right in saying that provisions for appointments made under the G.Rs. mentioned above cannot be taken to be a standard, rigid staffing pattern.

14. *Further submission of the applicants is that G.R. dated 25.05.2004 posts of Livestock Development Officers, Group-B then existing stood abolished and the only posts that remained were of Livestock Development Officers, Group-A and Assistant Director, Livestock Development Officer, Group-C who were non-graduate and unregistered Veterinary Practitioner. Further submission of the applicants is that there was no question of applying Recruitment Rules of 2014 to the posts which were no longer in existence. The historical background and the chronology to which we have adverted hereinabove (at pages 77 to 78 and 86 to 92) shall suffice to reject this submission of the applicants.*

15. *According to the respondents, R-1 & 2 have issued the impugned order (A-12) and the impugned notification (A-13) permitting Diploma/ Certificate holders to only perform Minor Veterinary Services in Grade-I Dispensaries strictly under the supervision and direction of registered Veterinary Practitioner, orders, directives and clarifications have been issued from time to time as to the services which can be rendered by Respondents 3 to 127 in Grade-I Dispensaries, they have executed undertaking to abide by the same, they have been attached to different Livestock Development*

Officers, Group-A as per whose direction and under whose supervision they will be working in Grade-I Dispensaries. Thus, the impugned order dated 08.03.2019 and the impugned notification dated 08.08.2019 strictly fall within the four corners of Section 30 of the Act of 1984. This submission is fully supported by record.

16. *The applicants do not dispute that Respondents 3 to 127 possess relevant Diploma/ Certificate and fulfil all eligibility criteria including length of experience as per Recruitment Rules of 2014.*

17. *As per proviso to Section 30 (b) of the Act of 1984 Diploma/ Certificate holders like Respondents 3 to 127 can only perform Minor Veterinary Services. Recruitment Rules of 2014 do not, in any way depart from this position which has been also crystallized in the above referred Judgments.*

18. *In the impugned notification dated 08.08.2019 (A-13) modalities have been laid down as to how respective Livestock Development Officers, Group-A shall be directing and supervising work of Respondents 3 to 127 working in Grade-I Dispensaries. These modalities are elaborate. They ensure proper supervision over actual execution of Minor Veterinary Services by Respondents 3 to 127 in Grade-I Dispensaries and*

fully conform to the concept of "Supervision" as applicable in this context, described in the above referred Rulings.

19. *Devising such modalities as has been done by the impugned notification (A-13) is a matter which falls within the domain of policy making. We find that the aspect of properly supervising and directing work of Respondents 3 to 127 in Grade-I Dispensaries by Livestock Development Officers, Group-A has been adequately taken care of.*

20. *Apprehension of the applicants that in the event of implementation of the impugned order and notification their chances of getting accommodated on suitable posts would be severally hampered is not well founded. Respondents have demonstrated that there are posts on which Livestock Development Officers, Group-A can be appropriately posted. In any case, once validity of the impugned order as well as validity of the impugned notification which has been issued in furtherance thereof is upheld, the apprehension articulated as above will have to be treated as an incidence of service."*

41. Sum and substance of what we have discussed hereinabove is this. We hold that only applicant no. 1 has locus standi and Respondents 2 to 4 do not have locus standi. We further hold that the impugned order dated 08.03.2019 (A-12) and the impugned notification

dated 08.08.2019 (A-13) have been issued in terms of Section 30 of the Act of 1984. Neither the impugned order nor the impugned notification suffers from any infirmity. Thus, case of the applicants fails on merits. The Original Application is accordingly dismissed with no order as to costs.

(Shri M.A.Lovekar)
Member (J)

Dated :- 10/08/2022.

(Shri Shree Bhagwan)
Vice Chairman.

*aps.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava

Court Name : Court of Hon'ble Vice Chairman & Member (J).

Judgment signed on : 10/08/2022.
and pronounced on

Uploaded on : 11/08/2022.