

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO.141/2021(S.B.)**

Deodas s/o Tukaram Rehpade,
Aged about 49 years, Occu.: Service,
R/o Flat No.401, Gajvakra Apartment,
Pratap Nagar Square,
SES Colony, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
Through Secretary,
Department of Animal Husbandry,
Mantralaya, Mumbai-32.
- 2) The Commissioner,
Animal Husbandry,
Aundh, Pune 411 067.
- 3) The Regional Joint Commissioner,
Animal Husbandry Department,
Civil Lines, Nagpur.

Respondents

Shri S.G.Karmarkar, Ld. Counsel for the applicant.
Smt.A.Wajukar, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J).

Dated:- 05th August, 2024.

JUDGMENT

Judgment is reserved on 01st August, 2024.

Judgment is pronounced on 05th August, 2024.

Heard Shri S.G.Karmarkar, learned counsel for the applicant and Smt.A.Warjekar, learned P.O. for the respondents.

2. This is second round of litigation. By Judgment dated 10.03.2023 this O.A. was dismissed. Against this order of dismissal the applicant filed Writ Petition No.2683/2023 in the Hon'ble Bombay High Court. The Writ Petition was allowed, order of this Tribunal dated 10.03.2023 was quashed and set aside and the matter is remanded to decide it afresh.

3. The applicant is B.V.Sc. (Annexure A-2). He is registered with the Maharashtra State Veterinary Council (Annexure A-3). He was appointed to the post of Livestock Development Supervisor vide order dated 04.05.1998 (Annexure A-1). Being aggrieved by denial of promotion he filed O.A.No.961/2018. By order dated 23.07.2019 (Annexure A-5) this Tribunal directed that his case be considered for promotion to the post of Livestock Development Officer, or grant of deemed date of promotion. Because these directions were not obeyed, the applicant filed Contempt Petition No.07/2020. The applicant was then promoted to the post of Livestock Development Officer vide order dated 14.07.2020 (Annexure A-7) on pay scale of Rs.41800-132300 (S-15). It is the grievance of the applicant that by virtue of his degree

qualification and identical nature of work which is performed by Livestock Development Officers Group-A he should have been fixed in the pay scale of Rs.56100-177500 (S-20) as per M.C.S. (Revised Pay) Rules, 2019 (Annexure A-6). He ventilated this grievance by making a representation dated 30.12.2020 (Annexure A-8) which went unheeded. Hence, this O.A.

4. The respondents have opposed the O.A. on the following grounds. The applicant was appointed as Livestock Supervisor as per Rule 3(b) (vi) of Livestock Supervisors, Group-C in the Establishment of Commissionerate of Animal Husbandry (Recruitment) Rules, 2013. Relevant part of this Rule reads as under –

3. Appointment to the post of Livestock Supervisors, Group C, shall be made either, -

(a) By promotion of a suitable persons on the basis of Seniority subject to fitness, from amongst the persons holding the post in Group D on the establishment of Commissionerate, not less than three years regular service in that cadre and possessing the qualification prescribed for appointment by nomination in sub-clause (ii) and (iii) of clause (b) of this rule :

or

(b) By nomination from amongst the candidates who,

[i] X XX

[ii] X XX

[iii] X XX

or

[iv] X XX

or

[v] X XX

or

[vi] Possess a degree in the B.V.Sc. or B.V.Sc. and Animal Husbandry of any statutory Agricultural University or an equivalent University of the State of Maharashtra.

Thus, the applicant entered the service as Livestock Supervisor which is a Group – C post, by way of nomination by virtue of his degree qualification as provided under Rule 3(b) (vi) of Rules of 2013. Cadre of Livestock Supervisors is a feeder cadre for the Assistant Livestock Development Officers, Group-C. The applicant was promoted to the latter post on 05.05.2010. Cadre of Assistant Livestock Development Officers is the feeder cadre for Livestock Development Officers Group-B. The applicant was promoted to the latter post vide order dated 14.07.2020 and fixed in the appropriate pay scale as per recommendations of 7th Pay Commission.

5. In their reply the respondents have furnished following details –

- i. The pay revision for the cadre of Livestock Supervisor happens to be Rs. 1200-30-1440 EB-30-1800 during Fourth Pay Commission, Rs.4000-6000 during 5th Pay Commission, Rs.5200-20200 with GP 2400 during 6th Pay Commission and S-8, Rs.25500-81100 during 7th Pay Commission.**

- ii. *The pay revision for the cadre of Assistant Livestock Development Officer happens to be Rs.1400-2300 during 4th Pay Commission, Rs.4500-7000 during 5th Pay Commission, Rs.5200-20200 with GP 2800 during 6th Pay Commission and S-10, Rs.29200-92300 during 7th Pay Commission.*
- iii. *The pay revision for the cadre of Livestock Development Officer, Group-B happens to be Rs.2000-3500 during 4th pay commission, Rs.6500-10500 during 5th Pay Commission, Rs.9300-34,800 with GP 4400 during 6th Pay Commission and S-15 Rs.41800-132300 during 7th Pay Commission.*

It is thus clear that the pay scale assigned to the post of Livestock Development Officer which happens to be the promotional post of the applicant is S-15 Rs.41800-132300 during 7th Pay Commission which happens to be right and correct.

6. Further contention of the respondents is that the applicant cannot claim S-20 pay scale to which Livestock Development Officers Group-A are entitled, merely because he is a Graduate since he was initially appointed to Group-C post, received two promotions and was entitled to be fixed in appropriate pay scale accordingly.

7. The respondents have further averred –

- a. *The Recruitment Rules of 1988 deal with the appointment of Livestock Development Officers Class II in the Animal Husbandry Department.*
- b. *Rule 4 A illustrates the recruitment process by promotion of a suitable person either working under the State or Z.P. on the basis of seniority subject to the fitness from amongst the persons holding the*

post of Assistant Livestock Development Officer Class III along with other qualifying conditions.

- c. Rule 4 B states that the appointment to the post of Livestock Development Officer shall be made by nomination from amongst the candidates who unless already in service of Govt. are not more than 28 years of age and possess the bachelor degree in Veterinary Science or Veterinary Science and Animal Husbandry.*
- d. Rule 5 of Rules 1988 states that the appointment to the post of Livestock Development Officer by promotion and by nomination shall be made in 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 Z.P.*

The cadre of Assistant Livestock Development Officers happens to be the promotional cadre of Livestock Supervisor Class III. This cadre was governed by the Livestock Supervisors in the Directorate of Animal Husbandry Recruitment Rules, 1983 between 17th Jan., 1984 to 14th Dec., 1984. As mentioned in the aforesaid paragraphs the qualification required for the post of Livestock Supervisor during this time span was passing of Livestock Supervisor's training course conducted by the mentioned authorities.

Thus, 15% quota for appointment to the post of Livestock Development Officer Class II was governed by the mandatory educational qualification of passing of Livestock Supervisor's training course conducted by the mentioned authorities.

The applicant opted for appointment in the cadre of Livestock Supervisor which is feeder cadre for the post of Assistant Livestock Development Officer and the said post is the feeder cadre for appointment by promotion in the aforementioned 15% quota reserved under Rule 5 read with Rule 4A of the Recruitment Rules 1988 candidates appointed as Livestock Supervisors become eligible

to claim appointment under 15% quota subsequent to their promotion to the post of Assistant Livestock Development Officer. The candidates promoted to the post of Livestock Development Officers from this quota were retained in the Pay scale of Rs.6500-10500 in the 5th Pay Commission.

It is as such clear that the applicant although a degree holder in field of veterinary Council has opted for an appointment to the post of Livestock Supervisor, was in turn promoted to the post of Assistant Livestock Development Officer, had become eligible to get nominated and subsequently promoted to the post of Livestock Development Officer Group B under 15% quota of Recruitment Rules, 1988. Thus he became eligible for the pay scale of Rs.6500-10500 under 5th Pay Commission or pay scale of Rs.9300-34800, GP 4400 under 6th Pay Commission or pay scale of S-15 Rs. 41800-132500 under 7th Pay Commission.

The applicant was not appointed under 85% quota reserved under Rule 5 r/w Rule 4B i.e. the quota reserved for direct appointment of the Veterinary Graduates holding registration with Council on the post of Livestock Development Officers from this quota were assigned pay scale of Rs.8000-13500 in the Fifth Pay Commission. As the applicant did not get appointment under Rule 4(B) read with Rule-5 directly on the post of Livestock Development Officer Class-II after the due recommendation of the Maharashtra Public Service Commission i.e. under stipulated 85% quota, he was not eligible for the pay scale of Rs.8000-13500 under 5th Pay Commission or pay scale of Rs.15600-39100 Grade Pay 5400 under 6th Pay Commission or pay scale S-20 Rs. 56100-177500 under 7th Pay Commission.

8. It was submitted by Shri S.G.Karmarkar learned Advocate for the applicant that the M.C.S. (Revised Pay) Rules, 2019 (Annexure A-

6) provide only two pay scales for Livestock Development Officer - one in pay level S-20 (Rs.56,100 - Rs.1,77,500) for Veterinary Graduates and the other in pay level S-15 (Rs.41,800 – 01,32,300) for others and considering the admitted fact that the applicant was holding a degree in Veterinary Sciences while entering the service, on being promoted to the post of Livestock Development Officer his salary should have been fixed in pay level S-20 and not in pay level S-15. For the following reasons which are culled out from elaborate pleadings of the respondents which are set out hereinabove, aforesaid contention of the applicant cannot be accepted-

- 1) The applicant was appointed as Livestock Supervisor which is a Group – C post, by way of nomination as per Rule 3(b)(vi) of Rules of 2013. This Rule *inter alia* provides for appointment by way of nomination to the post of Livestock Supervisor, Group – C on the basis of B.V.Sc. qualification i.e. degree in Veterinary Sciences.
- 2) Cadre of Livestock Supervisor is a feeder cadre for the Assistant Livestock Development Officer, Group–C. The applicant was promoted to the latter post on 05.05.2010.

3) Cadre of Assistant Livestock Development Officer is the feeder cadre for Livestock Development Officer, Group–

B. The applicant was promoted to the latter post on 14.07.2020 and fixed in the appropriate pay scale as per recommendations of 7th Pay Commission i.e. Rs.41,800-Rs.01,32,300/-.

4) The applicant opted for appointment in the cadre of Livestock Supervisor which is a feeder cadre for the post of Assistant Livestock Development Officer and the post of Assistant Livestock Development Officer is the feeder cadre for appointment by promotion in the 15% quota reserved under Rule 5 r/w Rule 4A of the Recruitment Rules of 1988. Candidates appointed as Livestock Supervisor become eligible to claim appointment under 15% quota after their promotion to the post of Assistant Livestock Development Officer.

5) The applicant, although a degree holder opted for an appointment to the post of Livestock Supervisor. He was then promoted to the post of Assistant Livestock Development Officer. After this promotion he became

eligible to get nominated for and promoted to the post of Livestock Development Officer, Group – B under 15% quota provided under Recruitment Rules of 1988.

6) The applicant was not appointed under 85% quota reserved under Rule 5 r/w Rule 4B.

7) As the applicant did not get appointment under Rule 4B r/w Rule 5 directly on the post of Livestock Development Officer, Class – II after due recommendation of M.P.S.C. under 85% quota, he was not eligible for pay scale of Rs.8000-13,500 under 5th Pay Commission or pay scale of Rs.15,600-29,100-GP5400 under 6th Pay Commission or pay scale of S-20 i.e. Rs.56,100 - 1,77,500 under 7th Pay Commission.

9. It was further submitted by Advocate Shri S.G.Karmarkar that the work being done by the applicant and the work done by Livestock Development Officers who are given S-20 pay scale is one and the same and for this reason also the applicant would be entitled to get S-20 pay scale. This submission cannot be accepted. While fixing pay scales points of entry and progression cannot be lost sight of. This is clearly reflected in two distinct pay scales provided in the Rules for

Livestock Development Officers. This is in accordance with the principle of intelligible differentia.

10. The undisputed chronology and reasons culled out therefrom clearly demonstrate that pay scale of the applicant was rightly fixed. For all these reasons, the O.A. deserves to be, and the same is hereby, dismissed with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 05/08/2024
rsm.

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

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Member (J).
Judgment signed on : 05/08/2024.
and pronounced on
Uploaded on : 05/08/2024.