

**Government of Jammu and Kashmir
Agriculture Production Department
Civil Secretariat, Jammu.**

Subject: OWP No. 25/2009 IA No. 33/2009 titled Kuldeep Kumar Mahotra & Ors Vs State & Ors- Consideration order thereof.

Government Order No. 82 - JK(APD) of 2022

Dated: 24 - 06-2022

Whereas, on the basis of Hon'ble Court judgement in case titled Dr. G.A.Gujree V/S State & Ors in SWP No. 1820/03, Dr. G.A.Gujree was given service benefits (notional promotion) vide Government order No. 64-ASH of 2000 dated. 09.08.2000 as Livestock Development Officer in the pay scale of Rs. 540-950 (old) w.e.f. 05.04.1972 and promotional benefits vide Govt. Order No. 83- ASH of 2008 dated. 02.06.2008.

Whereas, the petitioner namely Kuldeep Kumar Mahotra and others filed a writ petition in SWP No. 2272/2003 for grant of service benefits on the analogy of Dr. Gujree and in compliance to Hon'ble High Court judgement dated 08.12.2003 passed in the case titled K.K.Mahotra & Others V/S State & Others, the Department vide Government Order No. 56-ASH of 2006 dated. 07.03.2006 read with Government Order No. 101-ASH of 2007 dated. 26.06.2007 provided service benefits to the petitioners as well; and

Whereas, the petitioner again approached the Hon'ble High Court through medium of the instant OWP No. 25/2009 titled Kuldeep Kumar Mahotra & others Vs State of J&K & Ors for grant of same service benefits by modification of Government Order No. 56-ASH of 2006 dated 07.03.2006 read with Government Order No. 101-ASH of 2007 dated. 26.06.2007, on the analogy of Dr.G.A. Gujree who was given service benefits retrospectively vide Government Order No. 83-ASH of 2008 dated. 02.06.2008; and

Whereas, after this, a number of writ Petitions were filed in various courts for grant of same service benefits which were given to Dr. Gujree. However, the Department had taken the stand in similar writ petitions as well in the case of Dr. G.A.Gujree, that the service benefits in earlier case were given under compulsion and the case of Dr. K.K.Mahotra cannot be disposed off on the same analogy of Dr. G.A.Gujree. The case of Dr.Gujree was not covered by the rules. He had pressed the WP on the analogy of Dr. S.S.Dua. But case of Dr. S.S.Dua was different from that of Dr. Gujree. The benefits were given to Dr. G.A.Gujree because the LPA & SLP were dismissed for want of condonation of delay which occurred in filing of LPA and SLP. The Department also took the stand that one wrong cannot justify another and no one can claim equality on the basis of orders issued under compulsion and if a

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wrong is committed in earlier case, the same cannot be allowed to be perpetuated; and

Whereas, the Hon'ble Court has passed an order Dated. 29.11.2021 in the instant case, the operative part is reproduced as under;

“ ..in view of innocuous prayer made in this petition, I deem it proper to dispose of the same by treating the writ petition as representation and directing the respondents to consider the case of the petitioners in light of the averments made in the writ petition and extend same benefits to the petitioners as has been granted to one Dr. G.A.Gurjee as per Govt. Order No. 83-ASH of 2008 dated 02.06.2008 in compliance to the judgment/order dated 25.04.2006 passed in SWP No. 1820/2003, provided the petitioners are also similarly situated, of course, under rules occupying the field. Let consideration be accorded within a period of six weeks from the date a copy of this order along with a copy of writ petition and Annexures appended thereto are made available by the petitioners to the respondents”.

Therefore, in view of above facts, the case of the petitioners have been considered and found devoid of merits, hence rejected.

By order of the Government of Jammu and Kashmir.

**Sd/-
(Atal Dulloo), IAS
(Additional Chief Secretary)
Agriculture Production Department**

No: ASHF-Lit/57/2021-03

Dated: 24 -06-2022

Copy to the:-

1. Joint Secretary (Jammu, Kashmir & Ladakh), Ministry of Home Affairs, Government of India, New-Delhi.
2. Director, Animal Husbandry Department, Jammu / Kashmir.
3. Director, Archives, Archaeology and Museums, J&K.
4. OSD to Advisor (B) to the Hon'ble Lieutenant Governor.
5. Deputy Advocate General, High Court of Jammu & Kashmir and Ladakh at Jammu for information.
6. Private Secretary to the Financial Commissioner(Additional Chief Secretary) Agriculture Production Department for information of the Financial Commissioner.
7. Incharge Website, ASH&F Department.
8. Government orders file (w.2.s.c)


(Mohib Ali Bukhari)

Under Secretary to the Government
Animal/Sheep Husbandry & Fisheries Department