

Government of Jammu and Kashmir
Animal/Sheep Husbandry & Fisheries Department
Civil Secretariat, Jammu/Srinagar

Subject:- Hon'ble Central Administrative Tribunal, Jammu's Order dated 24.05.2021 in O.A.No 62/796/2021 in the case titled Dr. Mubashir Ali Rather & others V/s UT of J&K and others - consideration of representation thereof.

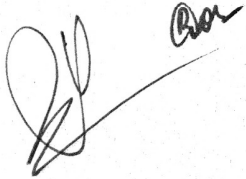
Government Order No. 87 -ASH of 2021

D a t e d: 09 - 06 -2021

Whereas, vide Government Order No.71-ASH of 2021 dated: 28.04.2021 among others Dr. Faisal Nasir, Veterinary Assistant Surgeon, I/C Sheep Development Officer, Handwara and Dr. Asif Ali Ganie, Veterinary Assistant Surgeon, Verinag, in the interest of administration, were transferred and posted against the posts of Assistant Director, Sheep Breeding Farm, Hardshiva and I/C Assistant Director, Sheep Breeding Farm, Zawoora, Shopian, respectively.

2. Whereas, Dr. Mubashir Ali Rather & others, on the plea that Dr. Faisal Nasir and Dr. Asif Ali Ganie, being ineligible, have been promoted to the post of Assistant Director, under the garb of transfer and assailed the above referred Government order before the Hon'ble Central Administrative Tribunal, Jammu Bench vide O.A. No. 62/796/2021 - titled **Dr. Mubashir Ali Rather & others V/s UT of J&K and others** with the following prayers for relief:-

- I. *A direction be issued in favour of the applicants and against the respondents for quashing and setting aside the Government Order No.71-ASH of 2021 dated 28-04-2021 passed by the respondent -1 to the extent of S No. 08 & 10 i.e. respondents No. 03 & 04 as the persons/petitioners, who were figuring at S No. 40, 41, 42 have been left out and res-03 who figure at S.No.43 has been posted as Assistant Director (AD), Farms i.e. order impugned.*
- II. *A direction be further issued to respondents for consider any promotion either incharge or permanent strictly as per the seniority maintained by the Department from feeding cadre.*
- III. *A direction be further issued for considering the representation of the applicants by implementing the seniority and rule 24 read with rule 25 & 27 of the J&K Civil Services (CC & A) rules of 1952.*
- IV. *Allow costs of this application to the applicant. Pass such other orders or reliefs as is deemed just and proper in the attendant facts and circumstances of the case in favour of the applicants and against the respondents.*



3. Whereas, the copy of the Hon'ble Central Administrative Tribunal order dated 24.5.2021 was received on 04.06.2021 in the Department. Hon'ble Central Administrative Tribunal, Jammu vide its order dated: 24.05.2021 disposed of the O.A. No. 62/796/2021 operative part of the said order is as under:-

In view of the limited prayer made by the learned counsel for the applicant, we dispose of the O.A with direction to the respondents to consider and take a decision on the representation dated: 29.04.2021 (Annexure No. A-7 to the O.A.) by passing a reasoned and speaking order within a period of two weeks from today. Till then, the impugned order would not be acted upon, if the applicants have been superseded by employees who are junior to them.

4. Whereas, vide Government Order No.06-ASH of 2021 dated 07-01-2021, eligible Veterinary Assistant Surgeon of Sheep Husbandry Department were placed as Incharge SDO/Equivalent, including Dr. Faisal Nasir and Dr. Asif Ali Ganie alongwith all 12-Petitioners and others. Subsequently, vide Government Order No.11-ASH of 2021 dated 14-01-2021, the names of Dr. Zahoor-ul-haq and Dr Asif Ali Ganie were ordered to be deleted from the Government No.06-ASH of 2021 dated: 07.01.2021, due to the fact that some period of their service was came to be decided as **Dies Non** and revised seniority of VAS was under process for finalization at that time, which was later finalized vide Government order No.68-ASH of 2021 dated 06-04-2021 and even the Revised Seniority also made these two doctors eligible for their placement as I/c SDO/Equivalent and vide Government Order No.85-ASH of 2021 dated 28-05-2021, they stand placed as I/c SDO/Equivalent.

5. Whereas, J&K Sheep Husbandry (Gazetted) Service Recruitment Rules, 1987 provide following method of Recruitment for the post of Dy. Director/equivalent (including ADs) :-

“By promotion from officers in Class-V with five year experience in that class”

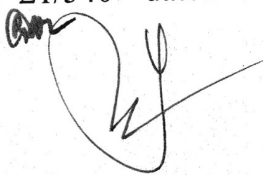
And for the post of SDO/equivalent the method of recruitment is:-

“by promotion from officer in Class-VI category-A with minimum five experience in that class”.

So at present, none of the petitioners as well as respondents is eligible for promotion/placement as Dy. Director/equivalent.

4

6. Whereas, the Department of Sheep Husbandry is not having required number of Deputy Directors/equivalent in place for catering to the requirements of the Department at present. The Department is having Sheep Breeding Farms, where elite Merino and imported breed is being bred for quality improvement in the sheep population in the UT of J&K. There are no full time Deputy Director/ equivalent Officers available in few of the important Sheep Breeding Farms of the Department, SBF, Zawoora, Shopian and SBF, Hardshiva, Baramulla being one of such Farms and in order to safeguard the working of these SBFs Director, Sheep Husbandry, Kashmir vide his letter No.DSHK/PA/2020-21/540 dated:10.02.2021 and letter No.DSHK/Esstt-02/G/12493 dated:24.03.2021,



recommended assigning charge of these SBFs to Dr Asif Ali Ganie and Dr Faisal Nasir, respectively out of existing, lot of senior and suitable VAS/SDOs. Since in these two farms, there are no posts of SDO/ equivalent and only posts of Assistant Director exist so in order to streamline the working of the SBFs, Dr Faisal Nasir and Dr Asif Ali Ganie, are posted in these two farms vide Government Order No.71-ASH of 2021 dated 28-4-2021 with clear stipulation therein that "posting of these Veterinarians against higher posts is purely temporary for managing day to day affairs of the Department and this arrangement shall never confer any right for preferential treatment". As this interim arrangement is just to run the day to day affairs of the Department in the absence of other eligible officers for posting as Deputy Directors, cannot be termed as promotion since none of petitioners as well as respondent No.3 & 4 are eligible for their promotion/placement as Deputy Director/equivalent as per the rules governing the service.

Now, therefore, in view of the above facts and circumstances and in compliance to Hon'ble Central Administrative Tribunal, Jammu's order dated.24.05.2021, the representation of applicants has been considered and found devoid of merit, hence rejected. However, Dr. Faisal Nasir and Dr Asif Ali Ganie, I/C SDOs shall continue at their present places of postings as I/c SDOs till the functioning of Sheep Breeding Farms is streamlined and shall draw their salary against the available vacant posts of Assistant Director/equivalent and it is reiterated that the tenure of the officers in Sheep Breeding Farms shall count as I/C Sheep Development Officers.

By order of the Government of Jammu and Kashmir

Sd/-

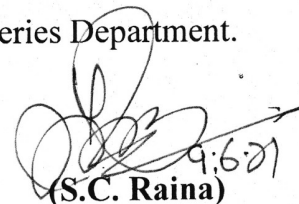
(Navin K. Choudhary) IAS
Principal Secretary to the Government

No: ASHF-Lit/10/2021-05-O/o ASH&F

Dated: 09.06.2020

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Govt. of India, New Delhi.
2. Director, Sheep Husbandry, Jammu/Kashmir.
3. Director, Archives, Archaeology & Museums J&K Jammu.
4. Mr. Amit Gupta, Learned Additional Advocate General with the request to apprise the Hon'ble Central Administrative Tribunal, Jammu in the matter.
5. Deputy Secretary (Legal), ASH & Fisheries Department.
6. Syed Sajad Geelani, Council for the applicants.
7. Pvt. Secretary to Principal Secretary to Government, ASH&F Department for information of the Principal Secretary.
8. Incharge website, Animal/Sheep Husbandry & Fisheries Department.
9. Government order file/Stock file (w.2.s.c.).


(S.C. Raina)

Deputy Secretary to the Government



