

Government of Jammu & Kashmir
Agriculture Production & Farmers Welfare Department
Civil Secretariat, Srinagar.

Subject: - OA No. 61/00245/2021 titled Jai Pal Singh & Anr. V/s
Union Territory of J&K & Ors- Representations.

Government Order No. 226 - JK (Agri) of 2021
Dated: 22.12.2021

Whereas, S/Shri Jai Pal Singh, Market Supervisor and Joginder Singh Baloria, Farm Manager filed writ petition bearing No. O.A./61/00245/2021 dated 15-02-2021 before the Hon'ble Central Administrative Tribunal (CAT) Jammu praying therein:-

1. *Quashing the Government order dated 06-Agri of 2021 dated 07-01-2021 whereby the respondent No. 3, 4 and 5 being Junior to the applicant No. 1 are transferred and posted above the applicant No. 1 and respondent No. 4 & 5 being Junior to the applicant No. 2 are transferred and posted above the applicant No. 2 in J&K Sericulture Gazetted Service on temporary basis for a period of six months or till the posts are filled up under rules by DPC/PSC whichever is earlier in their own pay and grade in giare violation of seniority list.*
2. *Directing the respondent No. 1 & 2 to consider the case of the applicants for promotion to J&K Sericulture Gazetted Service on in-charge temporary basis as per the basic seniority list of Sericulture Assistants maintained by the department with effect from 1985 till the Departmental Promotion Committee is constituted.*
3. *Further directing the respondent no. 1 & 2 to constitute the Departmental Promotion Committee and referring the names of applicants to the Public Service Commission for promotion to J&K Agriculture Gazetted service.*

However, Central Administrative Tribunal on 15th February 2021 disposed of the application No. O.A./61/00245/2021 dated 15-02-2021, the operative part of which reads as under:-

"Looking to the arguments of learned counsel for the applicants, the O.A is disposed of with a direction to the respondents to decide the representation dated 28-01-2021 (Annexure A-7 from Pages No. 69 to 72) of the applicants by passing a reasoned and speaking order in accordance with rules and with intimation to the

applicants within a period of eight weeks from today. While deciding the case of the applicants, the respondents would keep in mind that even in the case of promotion to the post of In-charge, seniority is to be kept in mind provided the concerned officer is not under any disqualification or ineligible to be promoted as In-charge."

Whereas, on examination of the matter in the department at various levels the Director, Sericulture Development Department informed that the petitioners were appointed in the Department as Sericulture Assistants vide Order No. 74-DS/JK/1994 dated 12-02-1994 on the recommendations of services Selection Board;

Whereas, on the basis of appointments, the department issued an updated seniority list of the category of Sericulture Assistants as it stood on 31-01-2009 wherein, the petitioners were figuring at Serial No. 22 & 24 respectively while as, the respondent No. 3, 4 and 5 were figuring at 19, 23 and 46 respectively;

Whereas, in the year 2009 the respondent No. 5 namely Sh. Manzoor Ahmad Rather (RBA) was promoted to the post of Farm Manager under the provisions of reservation quota as per the Reservation Rules in vogue at relevant Point of time and the applicant No. 1 namely Sh. Jaipal Singh was promoted to the post of Instructor on the basis of his own eligibility and seniority;

Whereas, the seniority lists of both the categories were issued separately. That as per J&K Sericulture (Gazetted) Service Recruitment Rules 1995 the post of District sericulture officer is to be filled up as per the following ratio:-

- | | |
|--|-----|
| i. Lecturer/TPO/Farm Manager/Market Supervisor | 60% |
| ii. Sericulture Assistant/Demonstrator | 30% |
| iii. Instructor | 10% |

Whereas, in the year 2010 the Department vide Government Order. No. 15-Agri of 2010 dated 30-01-2010 elevated Sh. Mohd. Abdullah Bhat Sericulture Assistant Respondent No. 3 as I/C District Sericulture Officer as per the provisions of Sericulture (Gazetted) Service Recruitment Rules 1995;

Whereas, in the year 2012 another seniority list of Sericulture Assistant as it stood on 31-08-2012 was issued wherein the applicant No. 2 namely Sh. Joginder Singh Baloria was figuring at S. No. 07 and the Respondent No. 4 namely Sh. Shahzad Ahmad Chesti was figuring at S.No. 09;

Whereas, In the year 2018 the applicant No. 01 namely Sh. Jaipal Singh, Instructor being senior in the category of Instructors was

promoted to the post of Market Supervisor and Sh. Joginder Singh Baloria being senior to respondent No. 4 namely Sh. Shahzad Ahmad Chesti in the seniority list of Sericulture Assistants was also promoted to the post of Farm Manager. The respondent No. 04 namely Sh. Shahzad Ahmad Chesti, being junior remained stagnant to the post of Sericulture Assistant;

Whereas, the petitioner belong to the category of Lecturer/TPO/Farm Manager/Market Supervisor and Sh. Manzoor Ahmad Rather in the said category of official was senior to them & vide Government Order No. 06-Agri of 2021 dated 07-01-2021 issued under endorsement No. Agri/Seri/01/2021 dated 07-01-2021 he was asked to look after the post of District Sericulture Officer, as such no irregularity has been committed and none of the rights of the petitioners have been violated. The applicants cannot claim seniority over a person who existed ahead of them in their category;

Whereas, Sh. Shahzad Ahmad Chesti belonged to the separate category of Sericulture Assistants wherein he is figuring at the top, so his elevation to the post of District Sericulture Officer can't be said to have violated the rights of the applicant. The applicant presently do not belong to the category of Sericulture Assistants, as they have been promoted to the posts of Market Supervisor and Farm Manager respectively, so they cannot claim any benefit from the category of Sericulture Assistants;

Now therefore, in the above backdrop and on consideration of matter in pursuance to the order dated 15.02.2021 passed by the Hon'ble Central Administrative Tribunal, the claim of the applicants being senior to the Respondent No.3, 4 and 5 is devoid of any merit and is hereby rejected. The Applicant No. 1 has also been considered on his own seniority to the next higher level and has been asked to look after the charge District Sericulture Officer vide Government Order No. 70-Agri of 2021 dated 28.04.2021 and the Applicant No. 2 will also be considered to the next higher level on the occurrence of vacancy on the basis of seniority & other eligibility criteria.

By order of the Government of Jammu and Kashmir.

SD/-

**(Navin K. Choudhary) IAS
Principal Secretary to Government
Agriculture Production & Farmer's
Welfare Department**

No. Agri-Legal/23/2021

Dated:- .12.2021

Copy to the :-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
2. Director, Sericulture Development Department, J&K.

3. Director, Archives, Archaeology and Museums, J&K.
4. Private Secretary to Principal Secretary to Government Agriculture Production & Farmer's Welfare Department.
5. Private Secretary to Special Secretary to Government Agriculture Production & Farmer's Welfare Department.
6. Shri Jai Pal Singh, I/c District Sericulture Officer Rajouri/Poonch.
7. Joginder Singh Baloria, Farm Manager C/o DSO Kathua.
8. I/c website operator, Agriculture Production and Formers Welfare Department.
9. Govt. Order file/Stock file (W.2.s.c).

Mir Tajamul
22/12/21

Mir Tajamul (JKAS)
Under Secretary to Government
Agriculture Production & Farmer's
Welfare Department

CS *OT* *By*