

(2005) 07 J&K CK 0009

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1145 Of 2003

Ghulam Mohi-ud-din Zargar

APPELLANT

Vs

State of J&K & Ors.

RESPONDENT

Date of Decision : 25-07-2005

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) JKJ 8 Supp

Hon'ble Judges : Mansoor Ahmad Mir, J

Bench : Single Bench

Advocate : M.Iqbal Dar, A.M.Magray, Advocates appearing for the Parties

Judgement

1. The case of the petitioner is as under;

The petitioner were basically working on adhoc basis along with other employees and were regularized as ClassIV employees and are figuring at

Sr. Nos. 23 and 26 respectively in the order contained in annexureA. The petitioners are matriculates and are entitled to promotion to the post of

Basic Health Worker, as per the Rules applicable.

2. The respondents have not promoted the petitioners to the next higher cadre i.e. Basic Health Worker despite of the fact that posts are lying

vacant. That some juniors have been given the said benefit, but the petitioners have been discriminated.

3. Respondents have filed reply and have pleaded that petitioners are not entitled to the promotion to the post of Basic Health Worker because of

the fact that petitioners are holding the posts of Nursing Orderlies in the Grade of Rs. 25503200 and belong to ClassIII in the General Unit

Category. While as the post of Basic Health Worker forms Class V category (a)

and the mode of recruitment to the said post is provided in the

Jammu and Kashmir Health & Medical (SubOrdinate) Service Recruitment Rules 1992. The post of Basic Health Worker is to be filled by

promotion from Class VI Category (a) having five years experience in that category.

4. Heard. Admit. With the consensus of learned counsel for the parties, the case is taken up for final adjudication.

5. It is profitable to reproduce relevant provisions of annexureA of Jammu and Kashmir Health & Medical (SubOrdinate Service Recruitment

Rules 1992 as under;

Class

Category

Designation

Grade

Qualification

Mode of recruitment

Basic

Health Worker

9001830

Matric

100% by Promotion from class VI category (a) having five years experience in that category.

VI

Basic Health Worker (All Discipline

8001500

Matric

100% by promotion from class VIII Categories (a) and (b) subject to having passed Matriculate examination.

VIII

Field Worker

630940

Middle

100% by direct recruitment

Arabic Teacher

630940

Middle trained in line

100% by direct recruitment

6. It is profitable to reproduce the pay scales provided by the Revised Pay Rules of 1992 and 1998 as under;

s.no.

Pay Scale 1987

Revised Pay Scale 1992

Revised Pay Scale 1996

i.

630940

75012870EB14940

2550552660603200

2.

8001500

950201150EB251500

3050753950804910 (improvised)

3.

9001830

1200301560EB402040

40001006000

7. Thus employees, who are holding the posts as Basic Health Workers (All discipline) in the revised grade of Rs. 30504910 (Rs.8001500), can

be promoted as Basic Health Workers in the revised grade of Rs. 40006000 (Rs.9001830), as referred hereinabove. The petitioners herein are

not falling in the said class and categories. Thus are working in the grade of Rs.25503200 (Rs.630940), thus cannot claim promotion to the post of

Basic Health Worker. The Class VIII is not a feeding cadre for promotion to the

post of Basic Health Worker.

8. In view of the above said facts, the petitioner cannot claim promotion to the post of Basic Health Worker in the grade of Rs. 40006000.

9. Accordingly the writ petition is dismissed along with all connected CMP(s). Interim direction, if any, shall stand vacated.