

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	<u>28.11.2023</u>		WPSB No. 522 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> <u>Hon'ble Rakesh Thapliyal, J.</u> Ms. Mamta Arya, Advocate, holding brief of Ms. Prbha Naithani, Advocate, for the petitioner. Mr. P.S. Bisht, Brief Holder, for the State. The petitioner, who after being appointed in 1992 as a Veterinary Officer, ultimately upon being promoted to the various grades, was promoted and posted as Chief Veterinary Officer in 2013. Owing to the fact that he was unable to manage a disease called as "Lumpy Skin Disease", his initial grade which was granted as 7 was downgraded to 3 as it has caused stigma on the department. It is based on this down gradation, the petitioner was issued with a show cause notice by letter No. 56788/XV-12023-7(13)2022 dated 20.06.2023, calling for an explanation from the petitioner with regard to his inaction to control the aforesaid disease. The petitioner has responded to the said letter and submitted his reply on 22.07.2023 and the departmental proceedings are still going on and they have not yet concluded. Under a premonition that owing to the fact that the departmental proceedings are still going on, he may be deprived of being considered for promotion on the post of Additional Director, he has preferred this writ petition, seeking a writ of mandamus, commanding the respondents that his down gradation to grade 3, may not create any impediment as such from being considered for promotion on the post of Additional Director.

			Though this writ petition in accordance with the pleading raised in para 8 of the writ petition is premature, but still in order to eradicate the apprehension expressed by the petitioner, this writ petition is being disposed of in the light of the judgment of the Hon'ble Apex Court as reported in 1991 (4) SCC 109, <i>Union of India Vs. Janki Raman</i> wherein, it has been provided that during the proceedings when a candidate is facing a disciplinary proceeding and because of any probable promotional exercise which has been undertaken or may be taken by the department, the promotion may not be deprived to the candidate facing disciplinary proceedings and in those eventualities, the promotional exercise has to be undertaken and the consequential result has to be kept in a sealed envelope process which is to be open after completion of promotional exercise. The respondents are directed that in case if any DPC is held for conducting the promotional exercise for the post of Additional Director, the petitioner's candidature would be considered and that would be kept in the sealed envelope, which will abide by the decision to be taken as a consequence of the Departmental Enquiry Committee, which has been constituted as on 20.06.2023, which admittedly is yet pending consideration and no final decision has been taken as such. Subject to the aforesaid, the writ petition would stand disposed of. (Rakesh Thapliyal, J.) (Sharad Kumar Sharma, J.) 28.11.2023 Mahinder/
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