

Central Administrative Tribunal
Principal Bench

O.A. No.2196/2002

New Delhi this the 26th day of May, 2003

Hon'ble Shri V.K. Majotra, Member (A)
Hon'ble Shri Kuldip Singh, Member (J)

1. Shri Abid Ali Khan,
S/o Late Shri Abdul Ghani,
R/o D-727, Sarojini Nagar,
New Delhi and presently posted at
Sarojini Nagar, CGHS(Unani) Dispensary,
New Delhi.
2. Shri Naseer Ahmed,
S/o Shri Abdul Ghani,
R/o Y-9, DDA Colony, New Ranjeet Nagar,
New Delhi and presently posted at Sarojini Nagar,
CGHS(Unani) Dispensary, New Delhi.
3. Shri Mohammad Husain,
S/o Late Shri Ahmed Husain,
R/o-M-133, Nand Nagri Extension, Sundar Nagri,
New Delhi and presently posted at CGHS Unani Store
Depot, Sarojini Nagar, New Delhi.
4. Shri Sattar Ahmed,
S/o Shri Sardar Ahmed,
R/o House No.2871, Bulbuli Khana,
Bazar Sita Ram,
and presently posted at South Avenue,
CGHS(Unani) Dispensary, New Delhi.
5. Smt Kauser Noor,
W/o Shri Shabudin Khan,
R/o B/791, Sangam Vihar, P.O.Pushpa Vihar,
New Delhi and presently posted at Daryaganj,
CGHS(Unani) Dispensary, New Delhi.
6. Shri M.A.Khan,
S/o Shri Mohd. Abdullah Khan,
R/o H.No.1444, Gali Syed Rafai, Bazar Qabar,
Jama Masjid, Delhi and presently posted at
Naraina Vihar, CGHS(Unani) Dispensary,
New Delhi.

-Applicants

(By Advocate: Shri T.D.Yadav, proxy for
Shri S.S. Tewari)

Versus

1. Union of India
through Secretary,
M/o Health & Family Welfare,
Nirman Bhawan,
New Delhi-110001.
2. Director General Health Services,
M/o Health & Family Welfare,
Nirman Bhawan,
New Delhi.

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3. Director,
CGHS, Nirman Bhawan,
New Delhi.
4. Additional Director(HQ),
CGHS, Nirman Bhawan,
New Delhi.
5. Additional Director(CZ),
CGHS, Dr. R.M.L.Hospital(Barrack No.6),
New Delhi.

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-Respondents

(By Advocate: Ms. Rinchen O.Bhutia)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Member (A)

MA-1793/2002 for joining together is allowed.

2. Shri T.D. Yadav, learned counsel of applicants was called upon to submit his arguments but he declined stating that another counsel Shri S.S.Tewari will argue the case who is not present. Shri T.D.Yadav was asked to go through the file then argue the case but he did not do so.

3. We have heard the learned counsel for respondents and considered the respective pleadings of parties.

4. Applicants, six in number, are Pharmacists (Unani) in CGHS, Delhi. According to them, they have been accorded two financial upgradations under the Assured Career Progress (ACP)Scheme. While the first ACP upgradation has been in the scale of Rs.5000-8000, the second one is in the grade of Rs.5500-9000. Applicants have pointed out that Pharmacists, Homeopathy and Ayurvedic who were in receipt of the same pay scale of Rs.4500-7000 as the applicants, have been granted

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first ACP in the pay scale of Rs.5500-9000 and the second one is in the grade of Rs.6500-10500. In this manner, they have been discriminated against although Pharmacists, Homeopathy and Ayurvedic are also under the Central Government Health Scheme as the applicants.

5. On the other hand, learned counsel of the respondents stated that in the Homeopathy and Ayurvedic streams, there is a hierarchy for the post of Pharmacist to the next higher post of Store Officer in the pay scale of Rs.5500-9000. As such, Pharmacists Homeopathy and Ayurvedic who had completed requisite number of years under the ACP Scheme were granted the next higher scale of Rs.5500-9000 available in the hierarchy. Thereafter they were given the next second ACP on meeting the requirement of specific number of years in service in the next higher scale of Rs.6500-10500. As no posts are available in the hierarchy to the Pharmacist (Unani), they have been placed in the next standard revised pay scales namely, S-9 and S-10 (Rs.5000-150-8000 and Rs.5500-175-9000) on being granted first and second financial upgradations, respectively under the ACP Scheme.

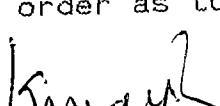
6. The Assured Career Progression Scheme for the Central Government Civilian Employees was formulated vide OM dated August 9, 1999 on the basis of the recommendations of the Fifth Central Pay Commission in order to mitigate financial hardship in relation to Group B, C & D employees. However, certain conditions have been prescribed for grant of benefits under the ACP

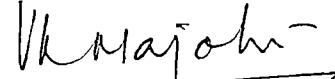
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Scheme. One such condition is that financial upgradation under the Scheme has to be given in accordance with the existing hierarchy in a cadre category of posts without creating new posts for the purpose. In case of isolated posts, in the absence of defined hierarchical grades, financial upgradation has to be given in the immediately next higher (standard/common) pay scales as indicated in Annexure-II which is in keeping with Part-A of the first Schedule annexed to the Notification dated September 30, 1997 of the Ministry of Finance (Department of Expenditure). Whereas in the hierarchy of Pharmacists, Homeopathy/Ayurvedic post of Store Officer in the scale of Rs.5500-175-9000 is available, no such post is available in the hierarchy for Pharmacists (Unani).

7. In this view of the matter, respondents cannot be faulted in granting first and second financial upgradations under ACP Scheme in the scale of Rs.5500-9000 and 6500-10500 to the Pharmacists Homeopathy/Ayurvedic. As there is no higher post available in the stream of Pharmacist(Unani) keeping in view the conditions prescribed under the ACP Scheme, Pharmacists(Unani) rightly accorded first and second financial upgradations under the ACP Scheme in scales of Rs.5000-8000 and 5500-9000 respectively.

8. Having regard to the above discussion, we do not find any merit in the OA which is dismissed accordingly. No order as to costs.


(Kuldip Singh)
Member (J)


(V.K. Majotra)
Member (A)