

8

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1401/2001

New Delhi this the 28th day of February, 2002

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri Govindan S.Tampi, Member (A)

Shri Shashi Bhushan Singh
Audiometric Assistant
Maulana Azad Medical College,
Delhi

... Applicant

(By Advocate Mrs.Avnish Ahlawat)

VERSUS

1. Government of India,
Through Secretary
Ministry of Health and Family
Welfare, New Delhi.
2. Government of National Capital
Territory of Delhi through
Secretary (Medical & Public Health)
A-905, Indraparastha Sachivalaya,
New Delhi.
3. Dean, Maulana Azad Medical College,
Delhi.

..Respondents

(By Advocate Sh.M.M.Sudan, learned senior
counsel through proxy counsel Shri Rajeev
Sharma, counsel for Respondent No.1)

(By Advocate Mrs.Sumedha Sharma for
respondents 2 -3)

O R D E R (ORAL)

(Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)

This is the second round of litigation of the
applicant, the earlier application (OA 2290/1994) having
been disposed of by Tribunal's order dated 28.9.1999.

2. We have heard Mrs.A.Ahlawat, learned counsel
for the applicant, Shri Rajeev Sharma, learned proxy
counsel for respondent No.1 and Mrs.Sumedha
Sharma, learned counsel for the respondents 2 and 3 and
perused the documents on record.

18.

3. In OA 2290/1994, the Tribunal had come to the conclusion in the facts and circumstances of the case that the applicant would be entitled to a higher pay scale than which he had been granted i.e. Rs.1400-2300. However, having regard to the judgement of the Hon'ble Supreme Court in Union of India and another Vs. P.V.Hariharan and another (1997 SCC (L & S) 838), a direction was given to the respondents to take a decision regarding grant of appropriate pay scale to the applicant after taking into account all the relevant factors w.e.f. 1.1.1986 notionally with arrears of pay with effect from one year prior to the date of filing of this OA i.e. 15.11.1993. A further direction was also given to the respondents to consider the case of the applicant for promotion, taking into account the DOP&T O.M dated 9.8.1999 and other relevant instructions on the subject. Applicant had filed CP199/2000 which was disposed of by Tribunal's order dated 13.3.2001, granting the present respondent No.1 further time to act upon their letter dated 16.10.2000 and CP was dropped. Learned counsel for the applicant has submitted that no further decisions/orders have been issued by the respondents 1-3. She has further submitted that no appeal has been filed by the respondents against the Tribunal's order dated 28.9.1999 in OA 2290/1994 and, hence, that order has become final and binding.

4. In the present application, the main reliefs sought for by the applicant are for a direction to the

js.

10

respondents to implement the aforesaid order of the Tribunal in OA 2290/1994 and order in CP 199/2000 revising the pay scale of the applicant w.e.f. 1.1.1986 and 1.1.1996 in accordance with the recommendations of the 4th and 5th Central Pay Commissions, respectively. He has also prayed for placement in higher pay scale, in accordance with the Assured Career Progression (ACP) Scheme with all consequential benefits, including interest at the rate of 18% per annum and costs.

5. From the reply filed by respondent No.1, learned proxy counsel has drawn our attention to Annexure R-VI which is a letter from respondent No.1 to respondent No.2 to provide necessary information in a self contained note and to answer certain queries raised therein. The observations of Respondent No.1 made in Paragraph 2 of this letter are also relevant in which it has been stated, inter alia, that respondents 2-3 should check up the position, in terms of the relevant orders and thereafter, reference made to the Ministry in case any decision is required from them. It is relevant to note that this letter is dated 14.12.2000 and apparently appropriate decision has still not been taken by the respondents, particularly, respondents 2-3 even after respondent 1 has already told them what exactly has to be done, till date and even after the filing of the present OA i.e. 29.5.2001. In the above facts and circumstances of the case, the reply filed on behalf of respondents 2 -3 can hardly be considered as complete or

js

showing ^{any B.} ~~full~~ application of mind to the issues under consideration.

6. In the above facts and circumstances of the case, we dispose of this OA with the following directions:-

(i) Respondents 2 and 3 to take appropriate decision in the matter, having regard to the decision of the Tribunal in OA 2290/1994, together with ^{the B.} advice they have already obtained from respondent No.1 as expeditiously as possible ^{and} in any case, within three months from the date of receipt of a copy of this order with intimation to the applicant. In the circumstances of the case we also make it clear that no further extension of time shall be granted to respondents to take this decision because they have already been granted sufficient time and obtained advice from respondent No.1 in December, 2000 to take appropriate decision which they have failed to do. Accordingly the respondents shall also consider the applicant's case for revision of pay scale under the ACP Scheme after re-fixation of the pay in the higher pay scale as directed above;

(ii) In the circumstances of the case, the consequential benefits shall be payable to the applicant within the aforesaid period of three months. Thereafter

JS

12

10 % interest shall be paid on the due amounts till the date of actual payment.

(iii) Further we consider that this is a fit case to impose costs of Rs.2,000/-(Rupees two thousand) against respondents 2-3 in favour of the applicant.

(Govindan S.Tampi)
Member (A)

Lakshmi Swaminathan
(Smt.Lakshmi Swaminathan)
Vice Chairman (J)

sk