

01.11.2011

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MA No. 1411/2011

CP No. 498/2009

OA 2885/2001

Present: Sh. Ajesh Luthra, ,counsel for applicant.
Mrs. Renu George,counsel for respondents.

The MA No. 1411/2011 has been filed seeking revival of the Contempt Petition No. 498/2009 in the OA No. 2885/2001. The present order is being passed after issuing a notice in this MA and considering the reply submitted by the respondents. We have also heard the learned counsels, Shri Ajesh Luthra and Ms. Renu George, appearing respectively for the applicants and the respondents.

2. In the OA No. 2885/2001 both the applicants, engaged on contractual basis as Pharmacists working in different hospitals under the Govt. of NCT, were agitating their grievances in respect of payments at par with their counterparts appointed on regular basis. The OA had been decided vide this Tribunal's order dated 10.04.2002 with the following directions:-

"2. Respondents, in the circumstances, will pay the applicants the same salary and allowances from 1.5.2002 as are being paid to the regularly employed Pharmacists. Prayer for grant of provident fund, pension, gratuity, medical attendance etc. which is claimed is, however, declined."

3. Subsequently, applicants had filed a CP No. 498/2009 which was closed with certain directions vide this Tribunal's order dated 4.2.2010. The respondents were given an opportunity to correct the pay fixation of the applicants, including the increment and the arrears. Besides their grievance regarding non-payment of pay and



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allowances from May, 2009 onwards was also to be looked into and disposed of by an order. In case of non-compliance, a liberty was granted to the applicants to revive the CP.

The present MA has been filed in terms of the aforesaid liberty.

4. The learned counsel for the applicants, Shri Ajesh Luthra, would submit that after the action in the present MA, the respondents have released to the applicants their pay and allowances from May, 2009 till April, 2011. However, the same for the period thereafter have not been released.

The learned counsel would also bring to our notice the Union Ministry of Finance, Department of Expenditure, Office Memorandum dated 18.11.2009 approving a revised pay structure for the common category posts of Pharmacists cadre. It would be the submission of the learned counsel that as per the original directions of the Tribunal, this also should be taken into account while determining the remuneration of the applicants.

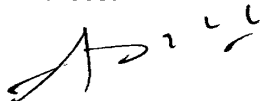
5. As per the counter affidavit filed by the respondents, the matter regarding release of salary of these Pharmacists from May, 2001 onwards is under process. It is not disputed that the applicants are still working and have not been discontinued by the respondents.

6. Under the circumstances, this MA is disposed with a direction to the respondents to release the further admissible pay and allowances to the applicants from the period May, 2011 onwards as well. While doing so, they would duly take into account the aforesaid OM of the Department of Expenditure dated 18.11.2009 and give effect to it in terms of the directions in the OA



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No. 2885/2001. This has to be done at the earliest possible and definitely within a period of two months from the date of receipt of a copy of this order. Needless to say the applicants would be at liberty to revive the Contempt Petition, if any cause of grievance still persists.



(A.K. Bhardwaj)
Member (J)



(Veena Chhotray)
Member (A)

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