

Central Administrative Tribunal  
Principal Bench

MA 2669/1999 IN  
OA 2635/1999

Hon'ble Shri Govindan S.Tampi, Member(A)  
Hon'ble Shri Shanker Raju, Member(J)

(16)

New Delhi, this the day of 12th December, 2001

1. Dr.Mrs.Ila Sharma  
W/o Dr.M.N.Sharma,  
R/o 10, Todermal Lane,  
Bengali Market,  
New Delhi - 110 001.
2. Dr.Mrs. Rita,  
W/o Mr.P.P.Ravindran,  
R/o 72A, Pocket-IV  
Delhi-91.
3. Dr.Mrs.Krishna Bhattacharya,  
W/o Dr.S.K.Bhattacharya  
R/o D-6, G.T.B.Hospital Campus,  
Delhi-95.
4. Dr.A.K.Lal  
S/o Mr. Kundan Lal  
R/o C-1/136, Janakpuri,  
New Delhi-58.
5. Dr.Mool Chand,  
S/o Kewal Ram,  
R/o J-4, IInd Floor,  
Vilkaspuri,  
New Delhi-18.
6. Dr. Rohit Jain,  
S/o K.C.Jain,  
R/o 43/1 Rajpur Road,  
Delhi-54.
7. Dr.Shashi Prabha,  
W/o Dr.Yashwant,  
R/o DG-856  
Sarojini Nagar  
New Delhi.
8. Dr.Diljeet Kaur Mokha  
W/o T.S.Mokha  
R/o 67, Masjid Road,  
New Delhi-110 014. ....Applicants.  
(By Advocate: Shri S.K.Sinha)

Versus

Union of India through:

1. The Secretary,  
Ministry of Labour, Shastri Bhawan,  
New Delhi.
2. The Employees State Insurance Corporation  
Through the Director General  
Panchdeep Bhawan,  
Kotla Road, New Delhi.

(2)

3. The Director (Medical) Delhi,  
Employees State Insurance  
Hospital Complex,  
Basaidarapur, Ring Road,  
New Delhi. ...Respondents.  
(By Advocate: Shri G.R.Nayyer)

17

Order(Oral)

By Hon'ble Shri Shanker Raju, Member(JJ)

Heard both the parties.

2. Applicants who were appointed as part-time doctors in the Employees State Insurance Corporation in the year 1988 are aggrieved by the decision taken by the respondents to pay only Rs.5000/ per month as consolidated salary w.e.f. 9.7.1998 vide impugned order dated 9.7.1998. Learned counsel for the applicants by resorting to the provisions of ESIC (Medical Posts) Recruitment Regulations, 1990 contended that the applicants are entitled for of relaxation in the matter of their selection on regular basis. It is further stated that in view of the job performed by them which is at par with the regular doctors and further placing reliance on a decision of the Madras Bench of this Tribunal, decided on 7.9.98 C.Jyotsna (Dr.) and Others Vs. Union of India and Others wherein in similar circumstances, the respondents have been suggested to consider relaxing the written examination also so far as the applicants are concerned, and the age limit is concerned, the relaxation is given by the respondents, so it is open to the respondents to consider whether the condition of written test can be relaxed. So far as the applicants are concerned, instead of passing through the requisite laid down method of selection the applicants may be asked to attend an oral

(8)

interview along with the other candidates. In this back ground, it is stated that the applicants are entitled for the relief prayed for.

3. On the other hand, learned counsel of the respondents stated that the applicants have been engaged as part-time doctors and are beyond the stipulated age of recruitment retirement and most of them are around 50 years. None of the applicants are within the maximum age of recruitment prescribed in the Statutory Recruitment Rules. It is further stated that some of the part-time doctors have failed in the selection. It is stated that similarly circumstance doctors approached this court seeking relief of Regular scale of pay, apart from OA 1596/91 but all those applications have been rejected. Particulars of applications filed by the applicants No 5, 7 and 8 have been suppressed by them. It is further stated that the recommendations of ESIC to regularise all part-time doctors could not be accepted/implemented, because it entailed not relaxation, but violation of statutory recruitment regulations framed under Section 17 of the ESI Act and the ESIC realised this fact in its meeting held on 12.5.1998 and instead decided to increase the remuneration as per impugned order. It is also stated that some of the part-time doctors have been regularised by resorting to relaxed standards. The existing ones are unfit for regular appointment either because of their age or non confirming to the minimum standards of selection.

(9)

4. We have considered the rival contentions of both the parties and also perused the pleadings available on record.

5. The claim of the applicants for regularisation contested in view of the decision of the previous OA 1358/91, filed by Dr. Mool Chand. The applicants who have despite been accorded relaxation, have not been found fit, as per the recruitment rules, in the selection process. As such action of the respondents is legal and valid and cannot be found fault with.

6. The decision of Madras Bench dated 7.9.98 would not have application under the facts and circumstances of the present case as it was not a direction but suggestions have been given to the respondents to consider the applicants for regularisation. This cannot be treated as precedent. Apart from it the applicants have been given an opportunity to take part in selection process. Having not qualified as per the recruitment rules, despite relaxation, the action of the respondents cannot be found fault with.

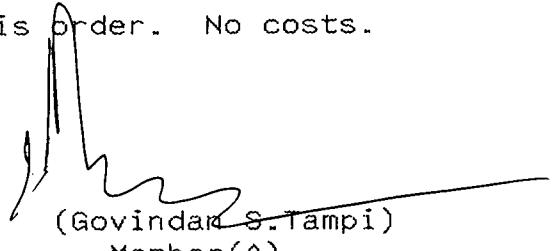
7. As regards, the enhancements of their remuneration is concerned, the respondents have taken a decision in 1998 and have already enhanced their consolidated wages from Rs.2500 to Rs.5000 w.e.f.9.7.98. We are still of the considered view that this consolidated salary is not sufficient in view of the services rendered by the applicants as Doctors at par with the regular

(20)

Doctors. The applicants are also performing almost identical work with those of regular Doctors. In view of this matter and keeping in view the other factors and inflation and the fact that the applicants have been continuing as part time doctors, we dispose of this OA with direction to the respondents to consider the enhancement of remuneration of the applicants keeping in mind the general economic conditions and the principle of 'equal pay for equal work'. The above directions should be complied within the period of three months from the date of receipt of a copy of this order. No costs.



(Shanker Raju)  
Member(J)  
/kd/



(Govindaraj S. Tamai)  
Member(A)