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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 499/95

New Delhi this the 15th day of October, 1996

Hon'ble Shri A.V. Haridasan, Vice Chairman (J)
Hon'ble Shri K. Ramamoorthy, Member (A)

1. Dr. Vipul Bhatnagar,
S/o late Shri K.P. Bhatnagar,
R/o 41-C, Pocket 'A',
ODA Flats, Sidharth Extension,
New Delhi.
2. Dr. (Mrs.) Madhu Agarwal,
W/o Dr. A.K. Aggarwal,
R/o 33-B, DA Block, (Hari Nagar),
G-8 Area, Rajouri Garden,
New Delhi. Applicants

(By advocate Shri Shyam Moorjani)

Versus

1. Government of National Capital Territory
of Delhi through Chief Secretary,
5, Sham Nath Marg,
Delhi-110 054.
2. The Secretary,
Medical & Public Health Department,
Govt. of National Capital Territory of Delhi,
5, Sham Nath Marg,
Delhi-110 054.
3. Director of Health Services,
Government of National Capital
Territory of Delhi,
Saraswati Bhawan,
Connaught Place,
New Delhi.
4. Lt. Governor of Delhi,
LG House, Raj Niwas Marg,
Delhi.
5. The Principal,
Nehru Homoeopathic Medical
College and Hospital,
Defence Colony, B-Block,
New Delhi.
6. Union Public service Commission,
through Secretary,
Dhoulpur House, Shahjahan Road,
New Delhi. Respondent.

(By Advocate Sh. Ajesh Luthra proxy for Ms.
Jyotsana Kaushik)

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O R D E R (Oral)

Hon'ble Shri A.V. Haridasan, Vice Chairman (J)

The applicants, two in number, are working as Demonstrator in Homoeopathy under the Directorate of Health Services, Government of National Capital of Delhi. Applicant No. 1 commenced his service on 5.12.1982 and applicant No. 2 in November 1981 after acquiring Diploma in Homoeopathic Medicine and Surgery. Applicant No. 1 has also obtained a Post Graduate Diploma of National Institute of Homoeopathy. There is no avenue for promotion according to the recruitment rules. The vacancies in the grade of Lecturer in Homoeopathy are to be filled only by direct recruitment. Because of these provisions in the recruitment rules, the applicants who joined the service as Demonstrators, ^{are fated to remain as Demonstrators} till their retirement. This situation cannot be said to be congenial for an employee to serve efficiently as he has nothing to look forward. The applicants have every reason to feel frustrated and disappointed. Four Demonstrators already appointed like the applicants were given ad hoc promotion to the post of Lecturer and the applicants learnt that their services are being regularised. Since respondents are not extending the same benefit to the applicants, the applicants are highly aggrieved. Therefore, the applicants have filed this application seeking to have the recruitment rules promulgated in the year 1992 for appointment to the post of Lecturer in Homoeopathy quashed as it does not provide promotional opportunities to the Demonstrators and for a direction to the respondents to suitably amend

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the Recruitment rules to provide for promotional avenues to the Demonstrators and also to promote the applicants to the post of Lecturers in Homoeopathy.

The respondents have resisted the claim of the applicants. They have contended that the recruitment rules do not provide for promotion of Demonstrators as Lecturers and that taking into account the dissatisfaction among the Demonstrators, an Advisory Committee on Homoeopathy had been set up and the question of reviewing and restructuring the cadre is under consideration.

The respondents further stated that in view of the pendency of OA 2858/92 filed by ad hoc Lecturers, further consideration in this regard is not being undertaken.

In the rejoinder filed, the applicants have stated that the Committee set up, had submitted its report as back as in the year 1994 recommending upgradation of the post of Demonstrator to that of GDMO(H) (Teaching) which is equivalent to that of Lecturer in the pay scale of Rs. 2200-4000/- and the abolition of the post of Demonstrator and providing promotional avenues to the GDMO(H) (Technical) to the post of Assistant Professor and that the Government is sleeping over the issue.

We have heard Shri Shyam Moorjani, Counsel for applicant and Shri Ajesh Luthra, proxy for Ms. Juotsana Kaushik, Counsel for respondents. It is a

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fact undisputed that according to the existing rules, a Demonstrator in Homoeopathy has no alternative but to retire as Demonstrator 'unless he is able to compete successfully for direct recruitment to the post of Lecturer. There is a catena of ruling of the apex court that stagnation in the cadre breeds lethargy, dissatisfaction and frustration and that it is in public interest, to provide at least two promotional opportunities to those who are in service. Following the ruling of the Hon'ble Supreme Court in Mewa Ram Kanojia Vs. AIIMS and Ors. (JT 1989 (1) SC 512) and the observations in the judgement of the Hon'ble Supreme Court in the case of State of U.P. Vs. J.P. Chaurasia (AIR 1989 SC 19), this Tribunal had in OA 798/86 filed by the Homoeopathic Doctors Association observed that the Government should consider the question of providing promotional avenues to the Assistant Medical Officers (Homoeopathy) under the Delhi Administration. The situation in the present case is almost similar to the case of the Homoeopathy Doctors Association the only difference being in that case the applicant were Homoeopathic Doctors while in the present case the applicants are Demonstrators. Both of them suffer from the same problem of lack of promotional avenues.

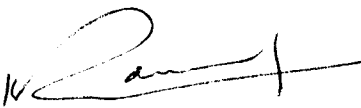
Now that the respondents themselves have felt the need of seriously considering a revision of the cadre with a view to provide promotional avenues to the Demonstrator and as the Committee set up by the respondents has submitted its report, we are of the


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considered view that the appropriate course for us would be to give a direction to the respondents to consider the recommendations of the committee to have the promotional avenues created in this regard and to take further action in the matter without any further delay.

In the result, the application is disposed of with a direction to the respondents to consider to provide promotional avenues to the Demonstrators (Homoeopathy) in the light of the report submitted by the Advisory Committee set up by the respondents and to take a final decision as expeditiously as possible but within a period of three months from the date of communication of this Order.

There is no order as to costs.


(K. Ramamoorthy)
Member (A)


(A.V. Haridasan)
Vice Chairman (J)

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