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Central Administrative Tribunal, Principal Bench

Original Application No.50 of 1996

New Delhi, this the 6th day of October, 1999

Hon'ble Mr.R.K.Ahooja,Member(Admnv)
Hon'ble Mr.Rafiq Uddin,Member(Judl)

1. Homeopathic Doctors Welfare Association (Regd)
Delhi Administration, 79 Begum Pur,
Malviya Nagar, New Delhi through
Dr.Ravinder Singh, Secretary.
2. Dr.Bijender Singh,
R/o 409/3, Janta Quarters,
Paschim Vihar, New Delhi

....Applicants
(By Advocate - None)

Versus

1. Director of Health Services,
Govt. of N.C.T. of Delhi,
E-Block, Saraswati Bhawan,
Connaught Place, New Delhi
2. Secretary Medical,
Govt. of N.C.T. of Delhi,
5, Sham Nath Marg, New Delhi.
3. Secretary,
Min. of Health & Family Welfare,
U.O.I., Nirman Bhawan,
New Delhi

....Respondents
(By Advocate - Shri Anoop Bagai through proxy
counsel Shri Anil Singhal)

O R D E R (ORAL)

By Hon'ble Mr.Rafiq Uddin, Member(Judl)

The applicants have approached this Tribunal for a direction to the respondents to upgrade the post of AMO as JMO (Homeopathy) and treating the same as promotion/upgradation with effect from 1.1.86 and also for sanctioning Non-Practising Allowance with effect from 1.1.86 in terms of the order passed by the Tribunal in TA-798/86 on 6.4.90. It is also prayed alternatively that promotion/upgradation be treated as promotion with effect from order dated 6.4.90, being the date of order.

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2. The facts of the case are that this Tribunal vide order dated 6.4.90 passed in TA-798/86 issued the following directions to the respondents:-

"However, the respondents are directed to sanction Non-practising Allowance to the Assistant Medical Officers (Homeopathy) under the Delhi Administration at an appropriate rate and also to consider and decide upon reasonable promotional avenues to them, within a period of four months from the receipt of a copy of this judgement by them".

3. According to the applicants, since the respondents did not abide by the aforesaid directions, a contempt petition was also filed before the Tribunal which was disposed of vide order dated 24.8.95 with the observation that the directions contained in the aforesaid judgement in T.A.798/86 have been complied with and order to that effect has also been issued on 23.8.95. It was however also observed that if the petitioners have a grievance in regard to the date on which they were given promotion, they may be allowed to seek appropriate relief. It was observed that if the petitioners have any grievance in the matter of service, they are at liberty to take up the matter with the department as also before appropriate forum. In this context, the applicants have again approached this Tribunal.

4. Respondents have contested the O.A. mainly on the ground that after consulting the U.P.S.C. and framing the necessary Recruitment Rules, they promoted the applicants to the re-designated post of J.M.O.(H) in the pay scale of Rs.2000-3500 plus usual allowances with effect from 17.8.95. All these posts have been

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created on the basis of the directions issued by the Tribunal. However, it is admitted that as regards promotional avenues, there is no possibility of ordering promotions with effect from 1.1.86 or any date before the date when D.P.C. decided to give promotions. It is contended that this Tribunal had not ordered that promotions be made within four months.

5. We have heard Shri Anil Singhal, learned proxy counsel for the respondents. None has appeared for the applicants.

6. It is evident from the perusal of the directions issued by this Tribunal cited above that it was merely directed that the respondents to consider and decide upon reasonable promotional avenues to the applicants. It was nowhere directed that the promotional avenues should be opened to the applicants with effect from 1.1.86. Since promotional avenues have already been opened by the respondents, we do not find any force in the applicants' assertion that the respondents have not complied the directions given by this Tribunal. There is also no specific case of the applicants as to why the promotional avenues should be effective from 1.1.86. Consequently, we do not find any merit in this O.A. and it is accordingly dismissed. No order as to costs.

Rafiq Uddin
(Rafiq Uddin)
Member(Jud1)

Ahooja
(R.K. Ahooja)
Member(Admnv)

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