

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.1460/2000

New Delhi, this the 18th day of April, 2001

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE MR. S.A.T.RIZVI, MEMBER (A)

1. Dr. Kayam Singh S/o Sh. Babu Ram  
age about 42 years working as  
Chief Medical Officer, Deptt. of  
Pathology in E.S.I. Hospital,  
Basai Darapur, New Delhi and  
resident of Flat No.8, E.S.I.  
Dispensary, Tagore Garden Extn.,  
New Delhi - 110 027
2. Dr (Mrs. Sangeeta Narang  
W/o Shri Pradeep Narang,  
age about 40 years working as  
Chief Medical Officer in E.S.I.  
Hospital, Okhala, New Delhi  
and resident of M-12 Saket, New Delhi
3. Dr. Hari Mohan Sidharth  
S/o Shri Behari Lal working as  
Chief Medical Officer and  
Resident of B-5, Shardapuri  
Ramesh Nagar,  
New Delhi ..... Applicants  
(By Advocate : Shri T.D. Yadav for  
Shri P.L. Mimroth)

VERSUS

1. Union of India through its Secty.,  
Ministry of Labour,  
Shram Shakti Bhawan, Rafi Marg,  
New Delhi : 110 001
2. The Director General,  
Employees State Insurance Corporation  
Panchdeep Bhawan, Kotla Road,  
New Delhi
3. Director (Medical) Delhi  
E.S.I. Scheme Hospital Complex,  
Basai Darapur, Ring Road,  
New Delhi ..... Respondents  
(By Advocate : Shri G.R. Nayyer)

O R D E R (ORAL)

By S.A.T. Rizvi, Member (A):

MA 1823/2000 filed by the applicant for  
condonation of delay is granted.

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2. Aggrieved by the respondents' letters dated 23.4.1999, 22.10.1999 and 23.6.1999 placed at Annexures A-1, A-2 and A-3 respectively by which full benefit of pay upgradation in consequence of the recommendations of the 5th CPC has been denied to them, the applicants have filed the present OA. The respondents have sought to contest the OA by filing a reply. The applicants have filed a rejoinder.

3. We have heard the learned counsel on either side and have perused the material placed on record.

4. The applicants, who are working as Chief Medical Officers under the respondent No.3, were granted study leave for varying periods of time for completion of Post Graduation course in M.D (Pathology) in the case of Dr. Kayam Singh, M.D.(C.H.A) in the case of Dr (Mrs) Sangeeta Narang and for Post Graduation Course in M.D (C.H.A) from National Institute of Health & Family Welfare in the case of Dr. Hari Mohan, the third applicant in this OA. During the period of study leave, the applicants continued to draw their salaries from the ESI Hospital/Dispensaries. While the applicants were still pursuing their respective courses, the recommendations of the 5th Central Pay Commission were accepted by the Government and implemented. On their return, full benefit of the recommendations of the 5th CPC as from 1.1.1996 has been denied to them and this has been done, according to the learned counsel appearing for the respondents, by relying on Rule 56 (2)(a) reproduced below:

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"During study leave availed of in India, a Government Servant shall draw leave salary equal to the pay that the Government servant drew while on duty with Govt. immediately before proceeding on such leave and in addition the dearness allowance and house rent allowance as admissible in accordance with the provisions of Rule 60."

On a plain reading of the aforesaid rule, we do not find anything in the same which should deprive the applicants of the full benefit of the recommendations made by the 5th CPC. The same clearly does not in so many words provide that the benefit of pay upgradation enforced during the period of leave will not be given. The learned counsel appearing in support of the applicants, however, in addition places reliance on the decision taken by this Tribunal in Shri Rameshwar Singh & Others Vs. U.O.I. & Others(OA No.1027/1991) and Dr. (Mrs) Aruna Madan Vs. U.O.I. & Others (OA No.35/1989) decided respectively on 4.2.1992 and 22.6.1993. We have perused the same and find that the Tribunal had considered the same question as has been raised in the present OA in the aforesaid two OAs and had decided in favour of the applicants in those OAs. We are bound by the decisions rendered by this very Tribunal in the aforesaid cases and, therefore, proceed to disallow the contention raised by the learned counsel for the respondents

5. In the circumstances brought out above, the OA is allowed, the impugned orders are quashed and set aside. The respondents are directed to grant actual benefit as applicable to the applicants in the revised scale w.e.f. 1.1.1996 upto the date they joined their respective

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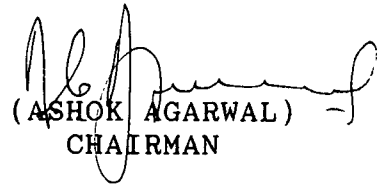
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Departments on return from study leave as per the recommendations of the 5th CPC. The respondents are further directed to grant the aforesaid benefit to the applicants within a maximum period of two months from the date of service of a copy of this order.

6. No costs.



(S.A.T. RIZVI)  
MEMBER(A)



(ASHOK AGARWAL)  
CHAIRMAN

(pkr)