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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

- (1) Regn. No. O.A. 1398/89.
(2) Regn. No. O.A. 1757/89.
(3) Regn. No. O.A. 1758/89.
(4) Regn. No. O.A. 1759/89.

DATE OF DECISION: 6-12-1991.

Association of Civilian Medical
Demonstrators of A.F.M.C. and
others

.... Applicants.

V/s.

Union of India, through
Secretary, Min. of Defence
and Another

.... Respondents.

CORAM: Hon'ble Mr. T.S. Oberoi, Member (J).
Hon'ble Mr. P.C. Jain, Member (A).

Shri Ajit Pudussery, counsel for the Applicants.
Shri M.L. Verma, counsel for the Respondents.

P.C. JAIN, MEMBER (A): JUDGMENT

Initially, the applicants filed a single application under Registration Number O.A. 1398/89, together with M.P. No.1497/89 for permission to file a joint application by all the applicants on the grounds that the cause of action is the same for all of them, the grievances for which redressal is sought are the same for all of them and all of them are working in the same post i.e., as Demonstrator in the Armed Forces Medical College, Pune. Although their M.P. No.1497/89 for filing a joint application was allowed by this Tribunal vide orders dated 18.7.89, the applicants were required to deposit three additional sets of fee in consideration of the fact that they had combined four independent reliefs in one application. On payment of additional fee by the applicants in accordance with the orders of this Tribunal, three more registration numbers, viz., O.A. 1757/89, O.A. 1758/89 and O.A. 1759/89, have been allotted to this case. However, for the sake of convenience, all the four O.A.s have been heard together and are being disposed of by this common judgment.

2. The O.A.s which have been filed under Section 19 of the Administrative Tribunals Act, 1985, have been duly signed and verified by the President of the Association (applicant No.1), applicant No.2 as also by the other 16

applicants. All of them are working as Demonstrators under the Directorate General, Armed Forces Medical Service at the Armed Forces Medical College, Pune, and have impugned Order No.12017/Demon/DGAFMS/DG 2B, dated 20th February, 1989 (Annexure 'G' to the O.As) by which they were informed that the Ministry of Defence had turned down the proposal for upgradation of the pay scale of Rs.2000-3200 to Rs.2200-4000 to the Demonstrators at A.F.M.C., Pune, since the Ministry of Finance, Department of Expenditure had not agreed to the same. The reliefs sought for in these O.As are as under: -

- "(a) Issue writ, order or direction to the Respondents quashing order No.12017/Demon./DG AFMS/DG 2B dated 20th February, 1989 and direct that the applicants are entitled to the scale of Rs.2200-4000/- w.e.f. 1.1.1986;
- (b) Direct grant of arrears of pay to the applicants w.e.f. 1.1.1986;
- (c) Issue direction that consequent upon the revision of pay the applicants will be designated as Group 'A' Gazetted Officers;
- (d) Issue direction that the applicants will be entitled to equal treatment with the Central Health Service Doctors in the matter of grant of P.G. Allowance and direct payment of arrears of the same.
- (e) Direct the Respondents to formulate Scheme to end stagnation either by providing a running scale or by giving time-bound promotions or by adoption of a merit promotion scheme within a suitable time frame.
- (f) Direct that the applicants will be entitled to counting of the ad-hoc period rendered by them against vacant posts before they were recruited by the J.P.S.C. for all purposes.

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- (g) Issue direction to the Respondents to grant earned leave to the applicants as applicable to them under the rules and given to other officers working in vacation departments like the C.H.S. staffed medical colleges.
- (h) Direct that the arrears will be paid alongwith interest at the rate deemed reasonable by this Hon'ble Tribunal.
- (i) Grant costs of the application.
- (j) Pass such other or further order/orders as are deemed necessary in the facts and circumstances of the case. "

3. The facts of the case in brief are as under: -

All the applicants are working as Demonstrators at the Armed Forces Medical College, Pune, and are governed by the Armed Forces Medical College (Civilians) Recruitment Rules, 1964. The minimum qualification prescribed for this post is MBBS. According to the applicants, they perform the duties of teaching the MBBS Syllabus of the Pune University, taking tutorials for the students, holding clinical demonstrations, practicals and delivering lectures to the students of the Armed Forces Medical College, in addition to their teaching the para-medical staff as also the nursing staff, and they are also working as Medical Officers at the Urban Health Centres of the A.F.M.C. Their main grievance is that the respondents are not granting them the scale of pay recommended by the Fourth Central Pay Commission for them. They claim to be covered by recommendation 11.73 of the Fourth Central Pay Commission, extracted below, which has been accepted by the Government: -

" 11.73 There are about 120 posts of Group 'B' Allpathic Doctors in various Ministries/Departments in the pay scale of Rs.650-1200 and Rs.650-960 for which the qualification for recruitment is M.B.B.S. degree. We recommend that these posts may be upgraded and given the pay scale of Rs.2200-4000."

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Prior to the recommendations of the Fourth Central Pay Commission, the applicants were holding the scale of Rs.650-960 and were designated as Group 'B' non-gazetted officers. According to the respondents, recommendation No.11.73 of the Fourth Central Pay Commission does not recommend application of the pay scale of Rs.2200-4000 to the post of Demonstrator held by the applicants and as such, they have been extended the normal replacement scale of Rs.2000-3200. The applicants further claim that most of them have, in addition to the M.B.B.S. degree, obtained Post Graduate qualification in their specialities and as such those applicants who have obtained Post Graduate qualification are entitled to Post Graduate allowance as prescribed by the Pay Commission. The respondents, on the authority of the communication of the Ministry of Health & Family Welfare dated 24th August, 1987, which had been reproduced by the Ministry of Defence in their I.D. dated 22nd March, 1988, have contended that the P.G. allowance is admissible to Group 'A' category Doctors and the applicants being in Group 'B' category are not entitled to the same. The applicants are also aggrieved by their recruitment rules published on 26th October, 1987 which do not provide for their promotional avenues. They are also aggrieved by the orders of the Ministry of Defence dated 9.6.1965 (Annexure R/V), regarding grant of earned leave. These orders provide that the Vacation Department Staff will be entitled to a vacation of 4 weeks in Summer and 2 weeks in Winter i.e., a total of six weeks in a calendar year. The applicants claim to be entitled to 15 days earned leave also in lieu of the six weeks vacation which they get less compared to the students who get a vacation of 8 weeks in Summer and 4 weeks in Winter i.e., a total of 12 weeks vacation in a calendar year. The applicants have also shown their grievance by stating that they were recruited on ad-hoc

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basis in spite of the fact that permanent posts were available, and that respondents make artificial breaks in their ad-hoc service by going through the farce of terminating their services and then-re-recruiting them after a few days. They remain ad-hoc till they are regularly recruited by the UPSC, and as a result their ad-hoc service is not counted by the respondents. They have given a list of nine persons who were initially appointed on ad-hoc basis and in some cases they were finally appointed by the UPSC after many years (Annexure 'E'). Accordingly, they pray that the period of their ad-hoc service should also be counted for all purposes, including seniority, terminal benefits etc. They have annexed with their O.A.s copies of some of their representations addressed to the various authorities (Annexure 'F'). The impugned order dated 20th February, 1989 (Annexure 'G') refers to their last representation dated 11th January, 1989 to the Secretary, Ministry of Defence, New Delhi, by which the Commandant, Armed Forces Medical College, Pune was advised to inform all concerned and the Secretary of Association of Civilian Medical Demonstrators of AFMC, Pune that the case of the applicants for grant of higher scale of pay of Rs.2200-4000 was turned down since the Ministry of Finance, Department of Expenditure had not agreed to the proposal. Thereafter, in June, 1989, the applicants filed their O.A.s.

4. We have gone through the records of the case and heard the learned counsel for the parties. The respondents have contested the O.A.s by filing their counter affidavit and the applicants have filed a rejoinder thereto also.

5. We may first deal with the preliminary objections raised by the respondents which are as follows :-

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- (i) There is no provision in the Administrative Tribunals Act, 1985 for filing representative application on behalf of the Association and different persons with different causes of action;
- (ii) The application is bad for mis-joinder of applicants;
- (iii) The Tribunal cannot set up itself as an Anomalies Committee on the Pay Commission's Report;
- (iv) The application is barred under Section 21 of the Act inasmuch as they have filed their representation dated 30.9.1986 while the application was filed in July, 1989; and
- (v) The application contains plural causes of action with plural reliefs.

As regards the points at (i), (ii) and (v) above, the Tribunal has already passed an order on 18.7.1989 whereby these objections of the respondents were covered and are no more valid. As regards the objection at (iv) above, it is seen from the impugned order dated 20.2.1989 that this is with reference to applicants' representation dated 11.1.1989. After its consideration by the respondents and that the case for grant of higher pay scale to Demonstrators stood referred to the Anomalies Committee for consideration and that the Report of the Committee was still awaited, it cannot be held that the OA is barred by limitation. In regard to the objection at (iii) above, it should suffice to state that the applicants are assailing in this OA the implementation aspect of the recommendations of the Fourth Central Pay Commission and not the recommendations themselves. Accordingly, the objection of the respondents on this aspect also cannot be upheld. We now proceed to examine the case on merits.

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6. The first relief prayed for by the applicants is that they should be made entitled to the pay scale of Rs.2200-4000 w.e.f. 1.1.1986. Their case is primarily based on two grounds that (1) they are covered by the recommendation of the Fourth Central Pay Commission in para 11.73, and (2) that the Demonstrators working in the All India Institute of Public Health and Hygiene, Calcutta and in the Goa Medical College, which is now under the Central Government, have been allowed the higher scale of Rs.2200-4000. As regards the second ground *ibid*, the applicants did not make any such averment in their OA but plead^{ed} this in their rejoinder. As such, the respondents had no opportunity to admit or to counter the same. Moreover, the applicants have not filed any document in support of this averment. As regards the first ground, the recommendation in para 11.73 has already been reproduced on page 3 ante. The respondents have contended that the applicants do not fall within the purview of this recommendation. *Prima facie*, we are also of the view that the Demonstrators cannot be categorised as Allopathic Doctors and there is nothing in the Report of the Fourth Central Pay Commission to lead us to the conclusion that the posts which the applicants are holding are included among the 120 posts of Group 'B' Allopathic Doctors referred to in the above recommendation. The post of Demonstrator is a separate category and it was separately dealt with by the Third Central Pay Commission as is clear from the relevant portion of the Report of that Commission, which has been filed by the applicants as Annexure R-I to their rejoinder. The applicants have stated in their rejoinder that the respondents have not shown as to how the applicants' case is not covered by the recommendations of the Fourth Central Pay Commission in para 11.73 referred to above, and in view of this an adverse inference should be drawn

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against the respondents. We are not impressed by this contention. When the recommendation itself prima facie does not apply to the post held by the applicants and the respondents have also stated that it does not apply to them, the onus lay with the applicants to prove that they are covered by this recommendation. They have failed to discharge this onus. It is also pertinent to mention here that in para 4.3 of their OA the applicants admit that they were given the pay scale of Rs. 650-960 by the Third Central Pay Commission; they moved number of representations against the above, they made representation before the Fourth Central Pay Commission, but the Fourth Pay Commission in their recommendations for the AFMC at page 134 of the Report in para 10.99 did not deal with the case of the petitioners. In view of this also, it is not possible to accept the contention of the applicants that their case is covered by the recommendation in para 11.73. However, it is clear from the impugned order dated 20.2.1989 (Annexure 'G') that the case for grant of higher pay scale for Demonstrators has been referred to the Anomalies Committee for consideration and that decision was still awaited and the same will be intimated on receipt. It is also stated in para 4.9 of the reply filed by the respondents. However, in this reply it is also stated that "As there is a total ban on creation/upgradation of posts, no further action is envisaged in this regard." A statement of the case which might have been sent to the Anomalies Committee has not been placed on record, and, therefore, it is not possible for us to say whether the reference to the Anomalies Committee is for upgradation of posts or for consideration of the alleged anomaly in the applicants

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not being given the scale of pay which they have claimed. Normally, Anomalies Committees set up after the Pay Commissions give their recommendations are not concerned either with creation of new posts or with upgradation of existing posts, and accordingly the ban on creation/upgradation of posts should have no relevance to the case before us. In our view, the Report of the Anomalies Committee on the reference admitted to have been made to them, needs to be expedited and a decision on their Report also should be taken as quickly as possible.

7. The relief regarding designation of the post held by the applicants as Group 'A' gazetted is admittedly a relief consequential to the upgradation of the scale of pay from Rs.2000-3200 to Rs.2200-4000. As per the existing position of the Government orders on the subject, the applicants are not entitled to be re-designated as Group 'A' gazetted officers.

8. The applicants have also prayed for grant of post-graduate allowance on par with the Central Health Service Doctors. It is stated by the applicants that most of them have in addition to the MBBS degree, obtained post-graduate qualification in their specialities, and that as per the recommendations of the Third Pay Commission which were accepted and implemented by the respondents, they are entitled to post-graduate allowance which has been denied to them. It is further stated that in para 29.8 of their Report the Fourth Central Pay Commission made the following recommendation :-

"29.8

The question of granting incentive to officers and staff who acquire higher qualification has also engaged our attention. Railways have suggested a scheme for giving such incentives for the more efficient discharge of their duties in these days when modernisation

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and adoption of advanced technology is being undertaken in different fields of Railways working. Suggestions have already been made for grant of Post Graduate allowance to Veterinary Surgeons and special allowance to E.D.P. personnel. Some such schemes are in existence in the Defence services. We suggest that some incentive should be given to employees who acquire qualifications which are useful for their work and contribute to their efficiency."

The applicants have asserted that the respondents have refused to implement the above recommendation only with regard to the petitioners while it is being given to other persons similarly situated. They have also referred to the recommendation of the Fourth Central Pay Commission in para 10.236 while dealing with the Ministry of Health and Family Welfare. In this para the Commission agreed with the suggestions of the Ministry of Health and Family Welfare for enhancement of the post-graduate allowance to Rs.100/- per month for post-graduate diploma holders and Rs.200/- per month for post-graduate degree holders, subject to the condition that this will not be admissible ^{when} possession of post-graduate qualification has been prescribed for recruitment to the post. The applicants' case is that though the above recommendation has been accepted but the applicants ^{who} were similarly situated and Doctors working under the Directorate General, A.F.M.S. as Demonstrators are being denied equal treatment in that they are being denied the post-graduate allowance.

As regards the recommendations of the Third Pay Commission, on this point, Government had issued orders in the Ministry of Finance O.M. No.F.1(23)-E. III(A)/76 dated 27th November, 1976. Extracts of these orders ^{have been} as contained in Swamy's Compilation / filed by the Applicants as Annexure R-III to their rejoinder. From a perusal of these orders, it is clear that the applicants who were given the revised scale of Rs.650-960 in pursuance of the recommendations of the Third Central Pay Commission were not entitled to the post-graduate allowance. Even otherwise,

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the claim for such an allowance in pursuance of the recommendations of the Third Central Pay Commission is hopelessly time barred and is outside the jurisdiction of the Tribunal in view of the provisions of Section 21(2) of the Administrative Tribunals Act, 1985. As regards the position after the Fourth Central Pay Commission, the respondents in para 4.10 of their reply have stated that the orders in this connection are contained in the Ministry of Health and Family Welfare letter No. A/45012/1/87-CHS-1 dated 24.8.1987 and that it will be seen that these allowances are admissible to Group 'A' category Doctors. As the post of Demonstrator is Group 'B' non-gazetted they are not entitled to post-graduate allowance in accordance with these orders. Thus it also becomes a relief consequential to upgradation of the scale of pay and consequent re-classification of the post held by the applicants as Group 'A' gazetted. With respect to the recommendation in para 29.8 of the Report of the Fourth Central Pay Commission in regard to incentives for higher qualifications, the respondents in their reply have not stated anything specific except to refer to their reply on the question of post-graduate allowance to Doctors. We are given to understand that in pursuance of the recommendations in para 29.8 *ibid*, the Department of Personnel & Training while conveying the acceptance of the above recommendation by the Government had suggested to the Ministries to evolve suitable schemes. Nothing appears to have been done in this regard with reference to the category to which the applicants belong and many of them claim to have acquired post-graduate qualification. We are of the view that the respondents need to consider this aspect and take an expeditious decision.

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9. Another relief prayed for is grant of earned leave admissible to them under the rules and given to other officers working in vacation departments, like the C.H.S. staffed medical colleges. The case of the applicants is that the students of the AFMC get a vacation of eight weeks in summer and four weeks in winter but the members of the vacation department staff of graduate wing are allowed only four weeks during summer break and two weeks during the winter break, in accordance with the Ministry of Defence letter dated 9.6.1965 (Annexure R-V (collectively)). By these orders, the civilian staff of the graduate wing of the AFMC, Pune was categorised, under the sanction of the President, w.e.f. 1.4.1965, into vacation department staff and non-vacation department staff. Demonstrators are included in the category of vacation department staff. Members of vacation department staff are entitled to four weeks during summer break and two weeks during winter break provided that individual members may be allowed a maximum of ten weeks' vacation at the discretion of the Commandant, AFMC and that satisfactory arrangements can be made for the work and no other officer is deprived of his vacation thereby. It is further provided that the members of the vacation department prevented from availing themselves of the four weeks and two weeks vacation, as indicated above, by the authorities will be entitled to compensatory earned leave under the normal leave rules in force from time to time. The applicants have inter-alia claimed that they should be given vacation of eight weeks during summer break and four weeks during winter break as is allowed to the students. This contention cannot be upheld as staff cannot be placed on par with the students. It may be mentioned here that Professors/Associate Professors, Readers and Lecturers,

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who are the three other categories in the vacation department staff are entitled to the same vacation as the Demonstrators, and as such, no discrimination has been made between different categories including in the category of vacation department staff. The respondents in their reply have stated as below :-

"The case for grant of vacation leave to 'Teaching' staff has been accepted in principle and the same was sent to CDA (SC) Pune by Commandant, Armed Forces Medical College, Pune vide their letter No.3211/4/CE-II/Ruling dated 03 April 89. CDA (SC) Pune has now intimated that 45 days earned leave can only be admissible from 31 May 88 i.e. the date of issue of AFMC, Pune letter. Hence the case may please be treated as closed."

The above reply of the respondents does not clarify the position on the subject. It was also not clarified during the oral submissions. The applicants have contended that as they are allowed only half of the vacation which is allowed to the students, they should have been given 15 days earned leave in lieu of the period of vacation not availed by them in a calendar year. They claim that this is the practice in other medical colleges also where vacation staff exists. It is also contended that if earned leave is allowed to them they would also be able to encash the same at the time of their retirement as is done by their colleagues in the C.H.S. As already stated above, the vacation department staff cannot be treated on par with the students and any claim for earned leave in lieu of the shorter vacation allowed to the applicants is not tenable ^{on that ground.} Rule 28 of the CCS (Leave) Rules, 1972, deals with the subject of earned leave for persons serving in vacation departments. Sub-Rule (1) of Rule 28 provides for ten days earned leave to a teacher, principal, headmaster, librarian, laboratory assistant or a waterman working in a school. Subject to

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the provisions of Sub-Rule (1) *ibid*, a Government servant (other than a military officer) serving in a vacation department shall not be entitled to any earned leave in respect of duty performed in any year in which he avails himself of the full vacation. Ten days earned leave referred to in sub-rule (1) was allowed in lieu of 20 days half pay leave vide orders issued on 3.9.1981. The applicants have contended that they are not given the same leave facilities as are given to other civilian employees of medical colleges (vacation staff). They have stated that in other medical colleges and particularly the Central Health Service Staffed medical colleges which are similarly situated, in addition to the summer and winter vacations, the officers are entitled to 18 days earned leave at full pay plus twenty days half pay sick leave or ten ^{days} full pay sick leave while the applicants are denied earned leave altogether and only get ten days sick leave. As already stated above, the reply of the respondents on the subject of grant of earned leave in addition to the vacation is not at all clear. Nothing has been stated in the reply about the admissibility of leave to vacation department staff in other medical colleges. The applicants have also not placed before us any information about the period of vacation in the other medical colleges. We are, therefore, not in a position to arrive at any conclusive finding with regard to this claim of the applicants and we are of the view that the position needs to be clarified by the respondents to the college authorities who may communicate the same to the Demonstrators in AFMC, Pune.

10. Another relief claimed by the applicants and strongly pressed in the course of oral submissions is about the total lack of any promotion opportunities. The applicants have stated that they have no promotion avenue at all and

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they join as Demonstrator and retire as such. The respondents in their reply on this point have stated that as per the recruitment rules published on 25.10.1987, there is no provision for promotion of Demonstrators of AFMC, Pune. These terms and conditions have been accepted by them at the time of their initial recruitment. It is also stated that they can apply for the post of Readers and compete with others in the open market as and when these posts are advertised by the UPSC, and that they can also be considered for the post of Readers if they fulfil the requisite qualifications and experience. We have no doubt that the position as is admitted by the respondents to be in existence means that there are really no promotion avenues for the Demonstrators in AFMC, Pune. Learned counsel for the applicants cited a few authorities in support of his contention that some promotional avenues are necessary in Government service for maintaining efficiency and motivation. He specifically drew our attention to para 7 of the judgment in the case of Dr. Ms. O.Z. Hussain vs. Union of India : 1990 (Supp) SCC 688 which is reproduced below :-

"7. This court, has on more than one occasions, pointed out that provision for promotion increases efficiency of the public service while stagnation reduces efficiency and makes the service ineffective. Promotion is thus a normal incidence of service. There too is no justification why while similarly placed officers in other ministries would have the benefit of promotion, the non-medical 'A' Group scientists in the establishment of Director General of Health Services would be deprived of such advantage. In a welfare State, it is necessary that there should be an efficient public service and, therefore, it should have been the obligation of the Ministry of Health to attend to the representations of the Council and its members and provide promotional avenue for this category of officers...."

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Similar views were expressed by the Supreme Court in the case of Raghunath Prasad vs. Secretary, Home (Police) Department, Government of Bihar & Ors. (Judgments Today 1988 (1) SC 22). The Fourth Central Pay Commission in para 23.1 of their Report stated as below :-

"Every employee who joins service looks forward to a satisfactory career of progression. It is, therefore, necessary that the State as the biggest employer to lay down a fair and well defined policy for promotion of its employees. That in fact is one of the two basic conditions of a good public service, the other being security of service for which care has been taken in Article 311 of the Constitution and the case law which is developed on it."

In para 23.9 the Commission inter-alia stated that :-

"It is recognised that promotional opportunities should be available to employees as motivation form them to contribute their best in the discharge of their duties. At the same time, the system of career progression should be consistent with the functional needs and requirements of the organisation. It may not, therefore, be feasible to lay down a rigid formulation as to the number of promotions which an employee should have in his career and the length of service which should qualify for such time bound promotions."

In view of the above, we are of the considered view that the respondents need to evolve concrete measures by which the applicants can look forward to reasonable avenues of promotion in their entire service career.

11. Another grievance of the applicants is that some of them were recruited ad-hoc inspite of the fact that permanent vacant posts were available and that was so only because the UPSC took time to make recruitment. It is further stated that just to avoid giving them benefits, the respondents make artificial breaks in their ad-hoc service by going through the farce of terminating their services and then re-recruiting them after a few days. It is stated that out of the twenty Doctors who are at present

working as Demonstrators, nine candidates were initially recruited on ad-hoc basis and were eventually selected by the UPSC, and such ad-hoc Doctors are entitled to count their ad-hoc period as regular service for the purpose of seniority as well as for calculation of terminal benefits etc. They have also enclosed a list of these nine persons at Annexure 'E'. From a perusal of the aforesaid annexure it is seen that all these nine persons were given regular appointments during the period from 1973 to 1984. If they have any grievance in regard to their seniority they should have or should approach the competent forum in accordance with law, if so advised. Learned counsel for the applicants fairly conceded at the bar that in the absence of any valid authorisation by the members of the Association to the office bearers of the Association to raise individual matters of confirmation and seniority in a representative capacity, he would not press for this aspect of the case. The respondents in their reply have stated that there are 32 permanent posts of Demonstrators sanctioned in the Peace Establishment of AFMC, Pune and they are being confirmed as and when vacancies are available. Against this, the contention of the applicants is that recruitment is made on ad-hoc basis even when permanent posts are available. We have not been furnished any information as to how many persons have been recruited as Demonstrators against the aforesaid 32 permanent posts. Normally, recruitment through UPSC is made against permanent posts except where temporary posts are created for a specified period. In a number of cases the Supreme Court and other courts in the country have held that keeping employees ad-hoc for long periods is not desirable. Even the general Government orders on the subject are on similar lines. If persons have been recruited

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much in excess of the regular sanctioned establishment and such excess posts are being continued because it is felt that they are required on a long term basis, the desirable course would be to consider converting such excess posts into regular posts and make regular appointments ab initio. In fact, the Fourth Central Pay Commission has recommended that employees should not be kept temporary on the ground of non-availability of posts and has suggested that confirmation should be delinked from availability of permanent posts. Some general orders have also been issued by the Department of Personnel & Training in this regard. We hope that appropriate necessary action will be expeditiously taken by the respondents in this regard so that the practice of making ad-hoc recruitment of such professional people and keeping them ad-hoc for long periods is done away with. As regards the general principle of ^{counting of} ad-hoc service followed by regular appointment in accordance with the rules, the law as it has evolved and has since crystalised to a very great extent ^{is well known} and no general directions need or can be issued by the Tribunal.

12. In the light of the above discussion, ^{the CA is the} the CA is disposed of in terms of the following directions :-

- (1) The report of the Anomalies Committee to which the case of higher scale of pay for the applicants has been referred, should be expedited and the decision of the competent authority thereon should be completed within a period of six months from the date of receipt of a copy of this order.
- (2) ~~///~~ Suitable concrete measures should be evolved and notified for providing reasonable avenues of promotion to the incumbents of the post of Demonstrators in the AFMC, Pune. This should also be done within a period of six months from the date of receipt of a copy of this order.

(3) In the matter of grant of earned leave in addition to the vacation period allowed to the vacation department staff of the AFMC, Pune, the same should be re-examined in the light of our observations in para 9 above and a self-speaking communication should be sent to the applicants through the Commandant of the AFMC, Pune.

(4) In regard to recruitment on ad-hoc basis and regularisation of adhoc appointees against regular posts as also timely confirmation, the respondents should take action as per our observations in para 11 above.

The ^{ad hoc} ~~QA~~ is partly allowed as above. On the facts and in the circumstances of the case, we leave the parties to bear their own costs.

Cecilia
(P. C. Jain)
Member (A)

6/12/91
(T. S. Oberoi)
Member (J)