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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI.

O.A. NO. 1932/1988

Date of Decision 13.9.1990

Dr. R. G. Goel

... APPLICANT

-Versus-

Union of India & Ors.

... RESPONDENTS

Counsel for the Applicant

... Shri A. K. Goel

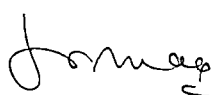
Counsel for the Respondents

... None

CORAM : HON'BLE MR. P. C. JAIN, MEMBER (A)

HON'BLE MR. J. P. SHARMA, MEMBER (J)

1. Whether to be referred to the Reporter ? No.
2. Whether reporters of local newspapers may  
be allowed to see the judgment ? Yes.
3. Whether their lordships wish to see the  
fair copy of the judgment ? No.
4. Whether to be circulated to other Benches ? No.

  
( J. P. SHARMA )  
MEMBER (J)

  
( P. C. JAIN )  
MEMBER (A)

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.....

J U D G M E N T

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(Hon'ble Mr. P. C. Jain, Member-A)

This application under Section 19 of the Administrative Tribunals Act, 1985 seeks stepping up of the applicant's pay to the level of the pay drawn by his juniors w.e.f. 1.1.1973 in pursuance of the recommendations of the 3rd Central Pay Commission.

2. The applicant joined the Central Health Service as Lecturer in Pathology, Maulana Azad Medical College, New Delhi, on 11.5.1967. The scale of pay for this post before 1.1.1973 was Rs.600-1300/-. On the other hand, the scale of pay of General Duty Medical Officers (G.D.M.O.s), also members of the Central Health Service, was Rs.450-1250/-. On the basis of the recommendations of the 3rd Central Pay Commission, the scale of Specialists Grade-II was revised to Rs.1100-1800/-. For the G.D.M.O.s the scale was revised to Rs.700-1300/- (junior scale) and Rs.1100-1600/- (senior scale). The pay of the junior scale G.D.M.O.s on promotion to the senior scale was to be fixed in accordance with 'concordance table.' As a result of this method of pay fixation in the senior scale, the pay of G.D.M.O. on promotion to the senior scale became higher than the pay

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of senior G.D.M.O. who was already in the scale of Rs.1100-1600/-. With a view to removing this anomaly, it was decided that in such a situation the pay of the senior G.D.M.O. should be stepped up to the level of pay which his junior would get on promotion to the senior scale in accordance with the 'concordance table' and the stepping up of the pay as above was given effect to from 1.6.1973. As a result of such stepping up, the pay of such G.D.M.O.s became higher than the revised pay of certain Specialists Grade-II in the scale of Rs.1100-1800/-.

3. The applicant's contention is that his pay w.e.f. 1.1.1973 was fixed at Rs.1100/-, but the pay of a G.D.M.O. who had earlier been drawing pay equal to him, was fixed at Rs.1150/- on 1.1.1973 and at Rs.1400/- on 1.6.1973. After coming to know of this anomaly he represented on 4.6.1986 in which he stated that the pay of Specialist Grade-II Officers had been fe-fixed on their representations but the same has been denied to him. He also cited the case of one Dr. Sudha Rani who joined the service in October, 1970 and whose pay had been fixed at Rs.1300/- on 1.6.1973 in the grade of Rs.1100-1800/- while though he joined on 11.5.1967 his pay was fixed at Rs.1200/- on 1.5.1973 in the same scale. In his representation dated 19.7.1986 he cited the case of Dr. S. Chatterji, G.D.M.O. who was drawing Rs.800/- on 31.12.1972 but his revised pay on 1.1.1973 was fixed at Rs.1150/- and further stepped up to Rs.1400/- w.e.f. 1.6.1973, although he was in lower grade of Central Health Service. He again represented on 28.7.1988 wherein he mentioned the judgment of the Central Administrative Tribunal in ~~the case of~~ O.A.269/87 and O.A.312/87, decided on 10.11.1987 in the cases of Dr. (Mrs.) Vimla Mehra and Shri A. K. Sood respectively and in which the stepped up

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pay of the applicants therein was made effective w.e.f. 1.6.1973 instead of 1.4.1982 for purpose of payment of arrears. The pleadings of the applicant show as if his pay has neither been stepped up nor any arrears have been allowed to him. He has prayed for a direction to the respondents to decide his representation and to pay all arrears within specified time.

4. Despite service neither anyone appeared for the respondents nor was any reply filed by them. The respondents were accordingly set ex parte vide Tribunal's order dated 12.5.1989.

5. The case came up for hearing on 16.8.1990 but none was present on either side. It again came up on 10.9.1990 and none was present for either side. We, therefore, decided to dispose of the case on the basis of the material on record which we have carefully perused. We have also perused the judgment in O.A.269/87 and O.A.312/87 decided on 10.11.1987 in the cases of Dr. (Mrs.) Vimla Mehra and Shri A. K. Sood respectively.

6. From the judgment cited above it is clear that as a result of anomalies arising from implementation of the recommendations of the 3rd Central Pay Commission, the pay of the senior G.D.M.O. was stepped up to the level of the pay drawn by his junior G.D.M.O. on promotion to the senior scale. Specialist Doctors in Grade-II also represented and sought stepping up of their pay to the level of the G.D.M.O.s who were in the junior scale and the pay of 36 Specialist Doctors was stepped up w.e.f. 1.6.1973. Some more Specialist Doctors represented for the same reliefs, but it was decided that even though the pay of Specialist Grade-II Doctors should be stepped up notionally w.e.f. 1.6.1973 as in the case of the G.D.M.O.s, actual monetary benefits, i.e., arrears should be allowed only from 1.4.1982. It was also decided that the orders granting stepping up of pay w.e.f.

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1.6.1973 to the 26 Specialists should be cancelled but the stepping up to the remaining 9 Specialists who had either died or retired should be retained. This change in the decision to allow the arrears w.e.f. 1.4.1982 was challenged by two Specialists Grade-II Doctors and this cut off date of 1.4.1982 for payment of arrears to Specialist Grade-II Doctors was held to be arbitrary and violative of the equality clause in the constitution and the applicants in the cited cases were allowed arrears of pay on the basis of the stepping up of their pay w.e.f. 1.6.1973 instead of 1.4.1982.

7. As already stated above, it appears that the applicant has neither been allowed the stepping up of pay as allowed to other Specialist Grade-II Doctors of the Central Health Service nor any arrears of pay were allowed to him on that account. On the basis of the facts as in the judgment of the cited cases, it is clear that the denial of benefits allowed to other Specialist Grade-II Doctors to the applicant could not be prima facie justified. The respondents in their letter dated 9.2.1988 addressed to all participating units of C.H.S. (at page 9 of the paper book) had stated that 'the general issue regarding payment of arrears as a result of stepping up of pay w.e.f. 1.6.73 instead of 1.4.82 to the Specialist grade officers of the Central Health Service is at present under consideration in this Ministry in consultation with the Department of Personnel and Training/Ministry of Finance (Department of Expenditure). The final decision in the matter, when arrived at, would be communicated to all participating units of the C.H.S. in due course.' The participating units were requested to bring this to the notice of all Specialist Grade Officers under the C.H.S. There is nothing before us to say whether any such decision has since been taken or not. As per pleadings of the applicant, no such decision<sup>is</sup> stated to have been conveyed to him.

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8. In the light of the foregoing discussion we consider it a fit case to issue a direction to the respondents, viz., the Union of India through Secretary, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi to decide the representation of the applicant within two months of the receipt of a copy of this order by passing a speaking order by sending a copy of the same to the applicant by registered post. While doing so they should keep in view the decision of the Central Administrative Tribunal in the cases of Dr. (Mrs.) Vimla Mehra and Shri A. K. Sood in O.A. Nos. 269/86 and 312/87 respectively, decided on 10.11.1987. This direction includes a direction to take a decision about the re-fixation of the pay of the applicant w.e.f. 1.1.1973 and payment of arrears, if any, on that account w.e.f. 1.6.1973. If the applicant is still aggrieved by the decision taken by the respondents on his representation, he will be free to approach the Tribunal again in accordance with the law, if so advised. The application is disposed of in terms of these directions. However, we leave the parties to bear their own costs.

  
( J. P. SHARMA )  
MEMBER (J)

  
( P. C. JAIN )  
MEMBER (A)