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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.C.P. NO. 411/92 in
O.A. NO. 1398/89

New Delhi this the 25th day of January, 1994

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

1. Association of Civilian Medical Demonstrators of A.F.M.C. through Dr. Ulka P. Chobe, President, Armed Forces Medical College, Pune, R/O 71, Karve Road, Chandrapura, Pune-15.
2. Dr. C. D. Limaye,
R/O 1195, Sadashivpeth,
Pune-7. ... Petitioners

By Advocate Shri Ajit Puddiserry

Versus

1. Shri K. A. Nambiar,
Secretary, Ministry of
Defence, South Block,
New Delhi.
2. Shri Montek Singh Ahluwalia,
Secretary, Ministry of
Finance, North Block,
New Delhi. ... Respondents

By Advocate Ms. Pratima Mittal Proxy for
Shri K. C. Mittal

O R D E R (ORAL)

Hon'ble Mr. Justice V. S. Malimath, Chairman —

The complaint in this case is that the directions of the Tribunal in O.A. No. 1398/89 and connected cases have not been obeyed. There are four directions of the Tribunal. The first direction is to expedite the decision of the Anomalies Committee and to take an appropriate decision in regard to grant of

appropriate scale of pay to the Demonstrators. The second direction is to take suitable concrete measures and to notify them, providing reasonable avenues of promotion to the Demonstrators in the A.F.M.C., Pune. The third is to take a decision in the matter of grant of earned leave in addition to the vacation period and to pass an speaking order in this behalf. The fourth direction is in regard to recruitment on ad-hoc basis and regularisation of ad-hoc appointees against regular posts.

2. So far as the first direction is concerned, the learned counsel for the petitioners submits that relief has been granted by according scale of pay of Rs.2200-4000 to the Demonstrators. So far as the third and fourth directions are concerned, it is his case that decisions have been taken but not favourable to the petitioners. Hence, no complaint can be made now in regard to non-compliance of directions (1), (3) and (4). The only question for consideration that survives is in regard to direction No. (2) which required the respondents to evolve appropriate measures to provide reasonable avenues of promotion to the Demonstrators in A.F.M.C., Pune.

3. The respondents have now filed along with their affidavit an order of the Government of India dated 21.12.1993 to show that they have taken steps to comply with the second directions as well. What is stated therein is that a decision has been taken by the Government of India to provide promotional avenues

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and for that purpose to re-designate the posts as Civilian Medical Officers. The promotional avenue for Civilian Medical Officers in the scale of pay of Rs.2200-4000 is to the cadre of Senior Civilian Medical Officer in the scale of Rs.3000-4500 and the next promotional avenue for them being to the cadre of Assistant Director Medical Services in the scale of Rs.3700-5000. It is further stated that the Civilian Medical Officers will have an all India service liability and that necessary recruitment rules will be framed in consultation with the U.P.S.C. It is also stated that the inter se seniority of the officers presently in position will be determined in consultation with the Department of Personnel & Training and the U.P.S.C. It is clear from this order that a decision has been taken to provide promotional avenues to the Demonstrators. The contention of the learned counsel for the petitioners is that this is not consistent with the directions issued by the Tribunal. It was submitted that whereas the respondents contended in the original application that the petitioners are not Doctors, they are now being re-designated as Civilian Medical Officers. It is further stated that whereas the Demonstrators do not have an all India service liability, the decision now taken says that the Civilian Medical Officers will have an all India service liability. It is also submitted that what has been produced is only a decision and the rules are yet to be framed. The decision points out

that these being isolated categories with small number of posts, it was decided to have a common category of Civilian Medical Officers comprising 32 posts of Demonstrators in the A.F.M.C., Pune and the 55 posts of Assistant Surgeons Grade-I in various offices under the administrative control of the D.G.A.F.M.S. When the posts are small in number and the categories are isolated, it would be difficult to provide adequate promotional avenues. It is for that reason that the respondents have stated that there has been a clubbing of the two cadres into a common cadre of Civilian Medical Officers so that reasonable opportunities for promotion to them can be provided. The decision in the circumstances cannot be regarded as unreasonable. What has been directed is that the respondents should make an attempt to provide suitable promotional avenues. The attempt now made is certainly to provide adequate promotional avenues to those in the pay scale of Rs.2200-4000 to superior positions in the scale of Rs.3000-4500. That the existing cadre is non-transferable does not mean that the Government does not have the power to change that condition of service. It is well settled that the service conditions can be changed in respect of Government servants by the State, unilaterally. Hence, there is nothing wrong if an all India service liability has been attached to the Civilian Medical Officers. It is no doubt true that what has been produced is only a decision of the Government of India and not rules proper, providing for promotional avenues. It is categorically stated that necessary

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recruitment rules would be framed in consultation with the U.P.S.C. In the affidavit filed it is stated that draft rules have already been sent to the U.P.S.C. We have, therefore, no hesitation in agreeing with the stand taken by the respondents that they have taken a decision to give promotional avenues to the petitioners and that as required by law, they have sent the draft rules to the U.P.S.C. for their concurrence. These matters should not be kept lingering on for unduly long period. Hence, we do expect the rules to be promulgated with utmost expedition.

4. As things stand, we are satisfied that the respondents have taken a decision to provide adequate promotional avenues to the Demonstrators and that, therefore, no case for taking action under the Contempt of Court has been made out.

5. As regards adverse decisions taken in regard to directions (3) and (4), the learned counsel for the petitioners submitted that the petitioners would be challenging those decisions in appropriate proceedings and that nothing that we have said in this matter should come in their way to agitate those rights in accordance with law. Reserving liberty to the petitioners in that regard, these proceedings are dropped.

S. R. Adige
(S. R. Adige)
Member (A)

V. S. Malimath
(V. S. Malimath)
Chairman

/as/