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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2046//2004
MA 1758/2004

New Delhi, this the 3rd day of March, 2005

**Hon'ble Mr. Shanker Raju, Member (J)
Hon'ble Mr. S.K. Malhotra, Member (A)**

1. Dr. (Mrs.) Ila Sharma
W/o Dr. M.N. Sharma,
R/o 10, Todarmal Lane,
New Delhi -1.
2. Dr. (Mrs.) Rita
W/o Mr. P.P. Ravindran,
R/o 72 A Pocket IV, Mayur Vihar,
Phase I, New Delhi.
3. Dr. (Mrs.) Krishna Bhattacharya,
W/o Dr. S.K. Bhattacharya,
D-6, GTB Hospital Campus,
Delhi.
4. Dr. Moolchand
S/o Sh. Kewal Ram,
R/o J-4, II Floor, Vikaspuri,
New Delhi.
5. Dr. Shashiprabha,
W/o Dr. Yashwant,
R/o DG-856, Sarojini Nagar,
New Delhi.
6. Dr. Daljeet Kaur Mokha,
W/o Sh. T.S. Mokha,
R/o 67, Masjid Road,
Bhogal, Jangpura, New Delhi.

...Applicants

(By Advocate Shri S.K. Sinha)

Versus

1. Union of India,
Through, the Secretary,
Ministry of Labour, Govt. of India,
Shastri Bhawan, New Delhi.
2. Director General,
Employees State Insurance Corpn.,
Panchdeep Bhawan, Kotla Road,
New Delhi.

3. Director (Medical)
 Delhi Region, Employees
 State Insurance Corpn.,
 Hospital Complex, Basaidarpur,
 Ring Road, New Delhi. Respondents.

(None for respondents.)

O R D E R (ORAL)

By Hon'ble Shri Shanker Raju, Member (J) :

Applicants have sought for the following reliefs :-

- i) allow the instant Original Applicant; and
- ii) direct the respondents to consider proportionate increase in the salary of the applicants with retrospective effect; and
- iii) quash the prospective revision of remuneration of the applicants vide the impugned order dated 23rd July, 2003 and declare that the applicants are entitled for grant of revised remuneration w.e.f. the date the revision of pay scales of regular medical practitioners was effected i.e. 1.1.1996 or at least from the date the respondents themselves considered revision of the remuneration of the applicants i.e. w.e.f. 9.7.98 or from any other date from which this Hon'ble Tribunal may deem fit in view of the judgement & orders of this Hon'ble Tribunal in OA No.2635/1999.
- direct the respondents to release the arrears on consequent revision;
- iv) and
- award cost of Rs.15,000/- as cost of the instant litigation; and
- v) pass such other direction or directions, order or orders as this
- vi) Hon'ble Tribunal may deem fit and proper to met the ends of justice".

2. Applicants were appointed as part-time doctors in the Employees State Insurance Corporation hereinafter E.S.I.C. in the year 1988. At that time it was decided to pay consolidated salary of Rs.5,000/- per month to the applicants.

3. Being aggrieved with the fact that whereas regular doctors who have been performing the identical functions and discharging similar duties, their pay scales were revised by the 5th CPC to the scale of Rs.8000-13500/- An OA 2635/1999 filed was disposed of on 12.12.2001 with a direction to the respondents to consider enhancement of remuneration of the applicants on the doctrine of equal pay for equal work. This has been challenged by the respondents in CW 3587/2002 wherein by an order dated 21.1.2003, High Court of Delhi issued the following directions :-

"We are unable to persuade ourselves to agree with learned counsel for the petitioners. A bare reading of the afore-extracted order of the Tribunal makes it clear that the Tribunal has merely asked the petitioners to consider the case of the respondents for enhancement in their fixed remuneration, having regard to the general economic conditions as also the principle of equal pay for equal work. In the said direction, we do not read any direction by the Tribunal to the petitioners to pay the same remuneration as is being paid to regular doctors, on the ground that they are performing the same work, as was being performed by the regular doctors, as is sought to be pleased by learned counsel for the petitioners. We do not find any infirmity in the impugned directions. It is also pertinent to note that vide order dated 30 May 2002, it was directed that the admission of the writ petition shall not stand in the way of the petitioner Union of India in considering implementation of the directions given by the Tribunal, without in any way being influenced by the observations made in the aforesaid order.

The writ petition, being devoid of any merit, is accordingly dismissed and the rule is discharged".

4. Thereafter, in compliance thereof by an order dated 23.7.2003 respondents have enhanced the consolidated salary of the applicants from Rs.5000/- to Rs.8,000/- w.e.f. 1.8.2003.

5. Learned counsel for the applicants states that the applicants had earlier sought minimum of the pay scale to be accorded to the applicants at par with the regularly appointed doctors on the strength of having performed identical duties. Accordingly, taking resort to the decision of the apex court in constitution bench in the case of Delhi Transport Corporation vs. DTC Mazdoor Congress and others AIR 1991 SC 101, it is stated that article 14 guarantees equality in law as other doctors are getting for discharging same duties pay scale of Rs.8,000-13855/-, their pay should have been enhanced to Rs.8000/- w.e.f. 1.1.1996.

6. As none appears for the respondents despite opportunity, OA is disposed of under Rule 16 of Central Administrative Tribunal (Procedure) Rules, 1987.

7. In their reply, respondents contended that applicants are part-time doctors engaged in 1989 and in the light of the observations of the Hon'ble High Court of Delhi that applicants cannot claim parity with regular doctors and the enhancement of the salary was as per the ESIC (Staff and Conditions of Services) Regulations, 1959, the OA is bereft of merit.

8. We have carefully considered the rival contentions of the parties and perused the material on record. Even casual workers who have been performing the similar duties but not holding the regular status have been entitled to a salary minimum of the prescribed wages as held in State of Orissa and others vs. Balram Sahu {2003(1) SCSLJ 1}. Applicants who are performing identical functions and duties as of regular doctors which is not disputed the Tribunal ordered consideration of their request and the Hon'ble High Court of Delhi though observed that applicant as respondent in CWP are not to be paid same remuneration as being paid to regular doctors. The issue would not be in conflict as what the applicants are demanding is the minimum of the pay scale as a consolidated salary, which has been agreed to by the respondents vide their memorandum dated 23.7.2003 but from a prospective date.

9. AS it is not disputed that this scale was revised by 5th CPC and was effective from 1.1.1996 applicants are also entitled to a consolidated salary of Rs.8000/- from 1.1.1996.

10. In this view of the matter, having regard to the decision in DTC case (supra) as well as in D.S. Nakara vs. UOI [1983 SCC L&S 145] of constitution bench decided that in the matter of pay and allowances if one performs identical duties, hostile discrimination cannot be meted out to the applicant which would be anti-thesis to Article 14 of the Constitution of India. In this view of the matter for the reasons recorded above, we allow this OA to the extent that the applicants would be entitled to a consolidated salary of Rs.8000/- w.e.f. 1.1.1996. The arrears thereof shall be calculated and paid to the applicants within two months from the date of receipt of a copy of this order. No costs.


(S.K. Malhotra)
Member (A)

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(Shanker Raju)
Member (J)