

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCHALLAHABADA 2
1407Original Application No. 143 of 1990Allahabad this the 18th day of October 1995Hon'ble Mr. T.L. Verma, Judicial Member
Hon'ble Mr. S. Dayal, Administrative Member

1. All India Asstt. Surgeon Grade Association of Defence Establishments through Dr. Pramod Kumar, General Secretary, Medical Officer Incharge, Ordnance Depot(Fort), Allahabad.
2. Dr. Pramod Kumar, Medical Officer Incharge, Ordnance Depot(Fort), Allahabad.

APPLICANTS.By Advocate Shri D.P. Singh.Ver sus

1. Union of India through Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. Director General, Armed Forces, Medical Services 'M' Block, DHQ, P.O. New Delhi.
3. Ministry of Finance, A.G., South Block, Govt. of India, New Delhi.

RESPONDENTS.By Advocate Shri A. MohileyORDERBy Hon'ble Mr. S. Dayal, Member (A)

This is an application under section 19

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of the Administrative Tribunals Act, 1985.

2. The applicants seeks the following reliefs through this application:

- (i) Setting aside of the impugned order dated 05.12.1989 issued by the respondents.
- (ii) Direction to the respondents to give career prospects with regard to promotion and allowances to the applicants on par with the General Duty Medical Officers of the Central Government Health Services Group A post.
- (iii) Award of the cost of application.

3. The applicants in this case are All India Assistant Surgeon Grade , Association of Defence Establishments and Dr. Pramod Kumar, who is also the General Secretary of the Association. The applicants mention that Medical Officers appointed on Group A posts in different cadres under the Government of India are under administration and control of Ministry of Health and Family Welfare, There is an Army Medical Corps for Army Personnel which is governed by the Army Rules. Other Defence Establishments like Ordnance Factories have a cadre of Medical Officers known as Ordnance Factory Medical Services and Ordnance Depots have Assistant Surgeon Grade I under the administrative control of the Director General Armed Forces Medical Services. Applicant no.2 in this case was appointed as Assistant Surgeon Grade I through Union Public Service Commission

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in 1977. He was initially appointed on a Class II Gazetted post in the grade of Rs.650-1200/- plus non practising allowance. This scale was revised to Rs.700-1300/- plus non practising allowance with effect from 01.11.973 on the report of the Third Pay Commission. The corresponding scale after acceptance of the recommendations of the Fourth Pay Commission was Rs.2200-4000/- which was a scale provided for Central Civil Services Group A posts. The applicants are governed by the same conditions of service as other Central Government Employees including C.C.S.(C.C.A) Rules, 1965. The applicants claim that Medical Officers working in different cadres except those under control of Respondent no.2 ~~and~~ viz. Director General, Armed Forces Medical Services, get atleast three promotions in their respective departments while the applicants have no opportunities of promotion and Assistant Grade I retire from the same post on which they are initially recruited.

4. The applicants claim that they made a number of representations to the Government of India which were put up before the Fourth Pay Commission. The Fourth Pay Commission recommended in para 11.72 of its report that allopathic doctors working on 344 group A posts not belonging to the organised health services should be given the replacement scales prescribed for general duty officers of Central Health Services. The pay

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commission in para 7.61 of its report emphasised the need for a pronounced objective and well defined policy of promotion. The pay commission also commended a rational cadre structure and long pay scales as a solution to the problem of stagnation and inadequate promotion opportunities. The recommendation of replacement scales shows that the Commission was in favour of uniform channel of promotion of group A services. It is claimed that General Duty Officers on Group A posts in Health Services have been made entitled to time bound promotion on the basis of seniority cum fitness. It is mentioned that the applicants submitted representations. They were initially informed that the representations were under consideration of the competent authority in the Ministry but, the respondents rejected the claim of the applicants for career prospects by their letter dated 05.12.1989. It is mentioned that there are 48 posts in all of Assistant Surgeon Grade I but only 18 incumbents are working and the rest are lying vacant as they are not attractive because of absence of prospects for promotion. The applicants claim that they have been discriminated against vis a vis the other medical officers working in organised medical services who get a minimum of three time bound promotions. It is claimed that such a discrimination is arbitrary and violative of Articles 14 and 16 of the Constitution. The applicants have mentioned that lady medical officers serving in Armed Forces Hospital were brought on par with Central Health Services vide order dated 22.12.1988. It is also

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mentioned that in a settlement between the Government and the Joint Action Council of Central Health Service and other Service Doctor's Association, C.H.S. Medical officer in the grade of 2200-4000/- was entitled to promotion on seniority cum fitness basis to the scale of Rs.3000-4500/- after four years of regular service on a post designated as Senior Medical Officers. Senior Medical Officers were made entitled to promotion as Chief Medical Officers in the scale of Rs.3700-5000/- after completion of six years of regular service as Senior Medical Officers. Chief Medical Officers were entitled to promotion on 134 Senior Administrative Grade posts to be created in the scale of Rs.5900-6700/-. The applicants were excluded from any benefit.

5. The arguments of Shri D.P. Singh, learned counsel for the applicants and Shri Ashok Mohiley, learned counsel for the respondents, were heard.

6. The claims made by the applicants deserve consideration. However, we find that the respondents have stated in the counter-affidavit in paragraph 8 that case for creation of promotional avenues to Assistant Surgeon Grade I was with the government. The same averment has been repeated in paragraph 9 of the Counter-affidavit. Since the counter-affidavit was finalised in June, 1990, it appears that although the Government had rejected the representation for career prospect as proposed

by applicant no.2 and another in their letter dated 17.10.98, the Fourth Pay Commission recommendation made in paragraph 11.72 of the report of the Commission was still under consideration. The learned counsel for the respondents produced a letter dated 31.7.95 no.21448/Court Case/DGARMS/DG-2B from the D.G.A.F.M.S. in which it was stated that three tier promotions were to be given to 104 posts including 55 posts of Assistant Surgeon Grade I which were redesignated in 1993 as Civilian Medical Officers. A copy of letter no.9(6)/93/D(Med) dated 21.12.1993 was produced to show that the three levels of posts in the cadre of Civilian Medical Officers were:

- (i) Assistant Director Medical Services:Rs.3700-5000/-
- (ii) Senior Civilian Medical Officer :Rs. 3000-4500/-
- (iii) Civilian Medical Officer :Rs.2200-4000/-

It appears from the letter dated 21.12.1993 that after merger, the cadre of civilian medical officers consisting of 104 posts has been reconstituted to create three levels of posts.

7. The applicants had claimed as relief career prospects with regard to promotion and allowances on par with the General Duty Medical Officers of the Central Government Health Service Group A posts on the ground that they had been discriminated against. This ground cannot be accepted as the applicants admittedly belong to a different cadre and career prospects in all cadres cannot be uniform.

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8. The application is, therefore, dismissed as none of the reliefs asked for can be given.

9. There shall be no order as to costs.

Member (A)

Member (J)

/M.M./

Compared.
checked on
23-11-95.