

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

(16)

O.A.NO. 172/90
T.A.NO.

DATE OF DECISION 25.11.1997

Dr. P. C. Goklani

Petitioner

Party-in-person

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Mr. Akil Kureshi

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. V. Radhakrishnan : Member (A)

The Hon'ble Mr. T. N. Bhat : Member (J)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lerdships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(17)

Dr. P. C. Goklani,
Medical Officer,
CGHS Dispensary
Shah-alam,
Ahmedabad.

: Applicant

(Party-in-person)

Versus

Union of India
(To be served through)
Secretary, Ministry
of Health and Family
Welfare, Nirman Bhavan,
New Delhi.

: Respondent

(Advocate: Mr. Akil Kureshi)

JUDGMENT

O.A. 172/90

Date: 25.11.1997

Per: Mr. V. Radhakrishnan

: Member (A)

The applicant was originally appointed as Medical Officer on adhoc basis from 2.7.1973 (Annexure A-3). Later on he was appointed after due selection by UPSC on regular basis from 25.10.79 (Annexure A-2), ~~Later on he was appointed after due selection by UPSC on regular basis from 25.10.1979 (Annexure A-2)~~. The applicant claims that as there was no break between the adhoc service and regular appointment he should be treated as regularly appointed officer from the date of initial appointment. Accordingly, he claims the following reliefs:-

1. Be pleased to direct the respondents to treat the applicant as regularly

appointed in Group 'A' in the pay scale of Rs.700-1300 from 2.7.1973 (date of initial appointment).

2. Be pleased to direct the respondents to consider the applicant for promotion to the post of S.M.O. from 25.11.82 on the basis of the records till that date.
3. Be pleased to direct the respondents to consider the applicant for promotion to the post of C.M.O. from 15.9.89 on the basis of the records till that date.
4. Be pleased to direct the respondents to consider the applicant's case for promotion to any higher post if his juniors are promoted on the basis of the records till this date.
5. Be pleased to direct the respondents to pay the arrears from 1.11.91.
6. Be pleased to pass any other order as deemed fit and proper, looking to the facts and circumstances of the case.
7. Be pleased to allow this application with costs."

2. After discussion at the bar, the applicant Dr. P.C. Goklani states that his case may be considered and decided as per the judgment of the Hon'ble Supreme Court in Dr. P.P.C. Rawani's case and his services should be regularised from the date of his initial appointment i.e. from 2.7.1973. The Hon'ble Supreme Court in the case of Dr. P.P.C. Rawani and Ors. vs. Union of India & Ors. in C.M.P. No. 8076/88 had given the following directions:-

[Signature]

- "1. Each of the appellants will be treated as regularised in Group A of the Central Health Service from 1.1.1973 or the date of his first initial appointment in the service (though as ad hoc Group 'B' doctor), whichever is later.

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2. In order to ensure that there is no disturbance of the seniority and the promotional prospects of the regularly recruited doctors, there will be a separate seniority list in respect of the appellants and their promotions (about which directions are given below) shall be regulated by such separate seniority list and such promotions will only be in supernumerary posts to be created as mentioned below.
3. (a) Each of the appellants will be eligible for promotion to the post of Senior Medical Officer or Chief Medical Officer or further promotional posts therefrom taking into account his seniority in the separate seniority list which is to be drawn up as indicated above.
(b) The promotion of any of the appellants to the post of Senior Medical Officer, Chief Medical Officer and further promotional post therefrom will be on par with the promotion of the regularly recruited doctor who is immediately junior to the concerned appellant on the basis of their respective dates of appointment. In other words, if a regularly recruited doctor, on the basis of the seniority list maintained by the Department, gets a promotion as Senior Medical Officer or Chief Medical Officer or further promotion thereafter, then the appellant who was appointed immediately earlier to him will also be promoted as a Senior Medical Officer or Chief Medical Officer or further promotion therefrom (as the case may be) with effect from the same date.
4. In order that there may be no conflict or any possibilities of reversion, the post to which an appellant will be promoted (whether as Senior Medical Officer or Chief Medical Officer or on further promotion therefrom) should only be to a supernumerary post. Such number of supernumerary posts should be created by the Government as may be necessary to give effect to the above directions. No promotion will be given to any of the appellants in the existing vacancies which will go only to the regularly appointed doctors.

5. The appellants hereby agree to give up all monetary claims on account of revision of scales, regularisation or promotion to which they would be entitled till 31.10.1991.

6. Apart from the appellants there are certain doctors who fall in the same category but who had not filed writ petitions before the High Court. They have filed directly writ petitions before this Court bearing Nos. 2620-2659/1985 and intervention applications. The intervention applications are allowed and rule nisi is issued in the writ petitions of which the other parties take notice. These interveners and writ petition have to be granted the same relief as the appellants. It is made clear that all these applicants and petitioners will be entitled to the same reliefs as the appellants for all purposes of seniority and promotion. All monetary claims on account of revision of scales, regularisation or promotion till 31.10.991 are given up by these applicants and petitioners as well."

3. Incidentally, it may be mentioned that the respondents had in their communication dated 26.11.92 addressed to the Respondent No.1 and 2 offered to examine the claim of the applicant on the basis of judgment in case of Dr. P. P. C. Rawani and Ors.

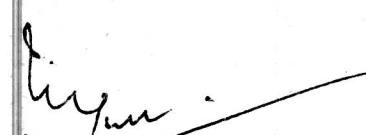
4. In view of the statement made by the applicant at the bar and also written submission given by him, the case is disposed of with the following directions to the respondents:-

As the case of the applicant is on par with that of Dr. P. P. C. Rawani & Ors, they shall extend the benefits of the said Hon'ble Supreme Court's judgment as indicated above to the applicant as well. However, the arrears on account of revision of scales, regularisation from

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the date of original appointment and promotion to the subsequent higher grades on the basis of seniority as per rules and other consequential benefits subject to the condition that all the monetary claims on account of revision of scales, regularisation or promotion till 31.10.91 are given up by the applicant. The amount of arrears received by the applicant prior to 31.10.91 shall be refunded by him to the Government, with 10% interest from the date of receipt of the amount by him until the date of deposit to the Government's account. The respondents shall take action to implement this judgment within a period of three months from the date of deposit of the amount by the applicant.

With the above observations and directions, C.A. stands disposed of accordingly. No costs.



T.N. Bhat
Member (J)



(V. Radhakrishnan)
Member (A)

Date

कार्यालय टिप्पणी
Office Reportआदेश
Order

11/06/2001

Mr. Doctor says that he will be appearing in the M.A./416/01 and also submits that he is sending application for instruction to the concerned department. He seeks time to file reply. The party in person is present. He says that the respondents may be directed to produce the record. However, since no reply is received as yet, if necessary, the direction will be given on the next date. Adjourned to 10/07/2001 for filing reply as well as appearance.

(G.C.Srivastava)
Member(A)(A.S.Sanghavi)
Member(J)

CMJ/

10-7-2001

Appearance not
filed by Mr.B.N.
Doctor.

Mr. Doctor says that he will be filing his appearance on behalf of the respondents. According to him, he has sent papers to the concerned department and waiting for the reply. Last time also same reply was received and we have recorded that Mr. Doctor had sought instruction from the concerned department. We hope now next no further time will be ^{asked for} given. Party present. Adjourned to 7-9-2001.

(G.C.Srivastava)
Member (A)

nkk

07/09/2001

Adjourned to 05/10/2001.

(G.C.Srivastava)
Member(A)

CMJ/

(A.S.Sanghavi)
Member(J)

प्रारूप संख्या 4
FORM NO. 4

दिनांक Date	कार्यालय टिप्पणी Office Report	आदेश Order
05/10/2001		<p><u>M.A./416/2001</u></p> <p>Mr. Doctor appears for the opponents in M.A./416/2001 and says that the reply is already filed. Party in person is present. Party in Person presses for the production of the departmental file while Mr. Doctor opposes the demand. Under the circumstances matter is required to be heard by the Division Bench. Since the Division bench is not available adjourned to 20/11/2001.</p> <p style="text-align: right;">(A.S.Sanghvi) Member (J)</p>
20.11.2001		<p>Party in person has filed a leave note. Mr. Doctor for the respondents present.</p> <p>Adjourned to 19.12.2001.</p> <p style="text-align: right;">(G.C.Srivastava) Member (A)</p> <p style="text-align: right;">(A.S.Sanghvi) Member (J)</p>
		<p>nkk.</p>

दिनांक Date	कार्यालय टिप्पणी Office Report	आदेश Order
19/12/01		<p><u>M.A./416/01 IN O.A./172/1990</u></p> <p><u>M.A./416/2001</u></p> <p>Heard Party in person and Mr. B.N.Doctor.</p> <p>The M.A. is moved by the applicant seeking following reliefs :</p> <ol style="list-style-type: none">1. Direct the respondents to implement the judgement and order in O.A. 172 of 1990 properly and as per law and promote the applicant to the post of Senior Medical Officer from 25.11.1982, C.M.O. from 15.9.1989 and C.M.O.(NFSG) from 1.1.1992 also to consider the case of promotion to the post of C.M.O. on ad-hoc basis from 15.9.1991.2. Grant this applicant with the cost.3. Grant arrears with interest of 18% compounding every month from 24.4.1999.4. Decide whether the interest demanded by the respondents is legal or not in view of original order of the Hon'ble Tribunal being modified by the Hon'ble High Court of Gujarat.

प्रारूप संख्या 4
FORM NO. 4

दिनांक Date	कार्यालय टिप्पणी Office Report	आदेश Order
		<p style="text-align: center;">-2-</p> <p>5. Pass any other order as deemed fit and proper looking to the facts and circumstances of the case.</p> <p>According to Party in Person the judgement given in 172/1990 is not implemented by the respondents and therefore he seeks implementation of the order passed in that judgement. It appears that party in person thinks that the judgement given by this Tribunal can be implemented by filing M.A. in this Tribunal. This is however not the position. There is no rule framed under any provision for execution of the judgement or orders passed by this Tribunal. However, there are provisions, which provides for taking necessary actions if a judgement of Tribunal is not implemented by the other side. The applicant can take recourse to those provisions. This M.A. being not maintainable under the law is therefore rejected with no order as to costs.</p> <p style="text-align: right;"><i>A. —</i></p> <p>(G.C. SRIASTAVA ASTAVA) (A.S. SANGHVI) MEMBER(A) MEMBER(J)</p> <p>CMJ/</p>