

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

CCPA 59/2008
[Arising out of OA 56/2006]

Date of Order: 14th September, 2010

C O R A M

Hon'ble Mr. Justice Anwar Ahmad, Member[Judicial]
Hon'ble Mr. Akhil Kumar Jain ,Member[Administrative]

Dr. Ranvir Singh Gahlawat, son of late Shri Katar singh, Resident of Village-Mauzam Nagar, P.O.- Farmana, District- Sonepat, Haryana at present posted as a Senior Veterinary Officer, Force Head Quarter, SSB, New Delhi.

..... Petitioner

By Advocate: - **Shri G. Bose, Sr. Advocate with Shri Vikash Jha**

-Versus-

1. Shri G.K. Pillay, Home Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi- 110001.
2. Shri Ashok Chawala, Finance Secretary, Ministry of Finance, Government of India, North Block, New Delhi- 110001.
3. Shri M.V. Krishna Rao, Director General, Sashastra Seema Bal, East Block- V, R.K. Puram, New Delhi-11006.
4. Shri Shyam Singh, Inspector General, SSB, Frontier Headquarters, Rukunpura House, New Dailey Road, Patna.,

..... Respondents.

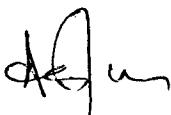
By Advocate: - **Shri S.C. Jha, ASC**

O R D E R

Akhil Kumar Jain, Member [Administrative] :- This contempt petition has been filed against the respondents for non-compliance of the order passed by this Tribunal on 07.08.2007 in OA No. 56/2006 whereby the following directions were given:-

“ The respondents, therefore, are directed to take a decision about the implementation of the recommendation of the 5th PRC with regard to Veterinary Doctors . if necessary, by taking a decision about re-structuring of the cadre preferably within a period of three months from the date of receipt of a copy of this order. On receipt of the decision taken by the Govt. of India in that regard, order about implementation of that decision of Govt. of India should be passed soon thereafter.”

2. Due to transfer/retirement, the change of names of respondents was



allowed. Replies to show cause notices were filed by the respondents.

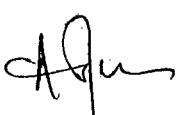
3. Heard the learned counsels for both the parties.
4. The learned counsel for the petitioner submitted that to understand clearly as to how the respondents are avoiding compliance of the order passed by this Tribunal, it is important to note the 5th CPC recommendation made in para 55.291, as reproduced in the order of this Tribunal. The same reads as follows:-

“ On the question of upgrading the Veterinary Officers uniformly and bringing them at par with medical doctors, we observe that a degree in Veterinary Science is comparable to an MBBS degree and holders of those degrees in both cases are registered and authorised to practice medicine, authenticated health certificates and give evidence as experts under the Indian Evidence Act. We also feel that there is no apparent reason to keep one of the two categories in a lower status. We, therefore, recommend that posts requiring a degree of B.V. Sc. & AH with registration in the Veterinary Council of India as the minimum essential qualification may be placed in a common entry grade corresponding to the existing entry scale applicable to General Duty Medical Officers and Dental Doctors under the Government of India. Veterinarians should have complete parity with Dental and General Duty Medical Officers, as given in Annexure 55.9, in terms of pay-scales and career prospects. In the matter of NPA, there is a small difference in the slabs over which a rate is applicable, resulting in Veterinary officers getting lower NPA at some stages of the basic pay. In view of the suggested parity, educational and practice requirements, and the need to be available even outside duty, hours for domestic and farm animal health care. We recommend that Veterinary Officers should also be paid a Non-Practicing allowance at the rate of 25% of their basic pay as has been recommended for medical doctors ”

5. The Tribunal in its order dated 7.8.2007, in OA No. 58 of 2006 clearly noted the nature of reliefs sought namely,

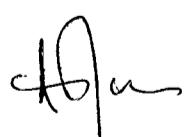
- (i) For direction to the respondents to implement Fifth Pay Commission report by bringing parity between General Medical Doctors and Veterinary Doctors.
- (ii) To give effect to the parity in respect of ACP to the Veterinary Doctors as per recommendations of the Fifth Pay Commission and other consequential benefits.

6. The order of the Tribunal is, therefore, to be interpreted in the context of the recommendations of the 5th CPC quoted above and the reliefs sought for.



7. The learned counsel for the petitioner further submitted that in the show cause reply filed by I.G, SSB Frontier Headquarter, Patna on 10.07.2009, it has been stated that the matter of implementing recommendation of the 5th CPC in respect of Veterinary Officers has been considered at all levels and not agreed to and finally decided vide U.O. No. 13.10.2008 annexed as Annexure R/A to show cause reply filed on 20.01.2009. The said U.O. does not even mention about recommendations of the 5th CPC. It only indicates that the 6th CPC has extended parity of pay scales between GDMOs/Dental Doctors and the posts of Veterinary Officers requiring a degree of B.V. Sc. & AH alongwith registration in the Veterinary Council of India. As far as DACP is concerned, the 6th CPC has not extended it to any stream other than medical doctors. Veterinary Officers will, however, be covered under the Modified Assured Career Progression Scheme (MACPS). Introduction of MACPS will address the grievance of Veterinary Officers regarding non-availability of time scale/in-situ promotion scheme to them.

8. The learned counsel for the applicant stated that this order cannot be treated as compliance with the order of the tribunal in any manner. Drawing attention to the show cause replies filed by other respondents, he stated that even in those replies no mention has been made about consideration of parity issue as recommended by the 5th CPC. He drew our attention to U.O dated 14.09.2009 addressed to DG, SSB which has been annexed as Annexure R-VI in the reply filed by respondent no. 2. The same U.O has also been quoted in the replied filed by respondent no. 1 and 3. The UO reads as follows:-



"A proposal for implementation of CAT judgment dated 7.8.2007 in the OA No. 56/2006 titled Dr. R.S. Gahlawat Vrs. Home Secretary and Others, has been examined in consultation with Ministry of Finance (nodal Ministry) and it has been observed that neither the Fifth Central Pay Commission nor Sixth Central Pay Commission has recommended DACP scheme for Veterinary Cadre officers. Accordingly, the Govt. of India has extended Modified Assured Career Progression Scheme (MACPS) to Veterinary Officers as the Sixth CPC has extended the MACPS to all Group 'A' posts whether isolated or not except those belonging to organized Group "A" services."

9. This again does not deal with the parity question as recommended by 5th CPC and as directed by this Tribunal in OA No. 56/2006. Even if the DACP is not recommended and hence not allowed, other issues related to parity must be examined and decided as per the recommendations of the 5th CPC and order of this Tribunal in OA 56 of 2006. The learned counsel also drew attention to the fact that on the same issue an OA was filed in Chandigarh Bench of CAT which was disposed of vide order dated 28.07.2004 in which, though the prayers were not granted, but the Tribunal noting that the implementation of the 5th CPC recommendation in respect of Veterinary cadre in the SSB was under consideration with the M.H.A., had expressed the hope and expectation that a decision in this regard would be taken by the Govt. of India at an early date. Further attention was drawn to a memorandum issued by MHA dated 19.07.2005 on the subject of implementation of 5th CPC recommendation in respect of Veterinary Doctors intimating, "Since the strength is yet to be decided in Veterinary cadre, we may suggest that proposal may be submitted thereafter".

10. The learned counsel for the petitioner submitted that in spite of statement made before the Chandigarh Bench of CAT, the respondents did not address the issued and even after the order passed in OA No. 56 of 2006, they are avoiding the main issue of parity as per recommendation of the 5th CPC. Now the recommendations of the 6th CPC are being quoted. The recommendations of the 6th CPC do not nullify the recommendations of the 5th CPC for the period prior to



report of 6th CPC. Moreover, even the 6th CPC has reiterated the recommendation of the 5th CPC on the issue of parity. Thus, the respondents are in willful disobedience of the orders passed by the Tribunal and hence, liable for penalty for committing contempt of the Tribunal.

11. The learned counsel for the respondents submitted that the respondents, after receipt of the order of the Tribunal, considered the issue in the light of order passed by the Tribunal. The parity in respect of DACP was not recommended in case of Veterinary Doctors by the 5th and 6th CPC. Hence, the Government has not agreed to the same. However, the MACPS which allows scale promotions on completion of specified periods in service if no regular promotion is given, has been made applicable in case of Veterinary doctors which is expected to address their grievance to a large extent. He added that it clearly transpires from the U.O of Home Secretary dated 14.09.2009 that the matter was considered by the Govt. in pursuance of the orders of this Tribunal. He further submitted that the similar issue was raised in OA No. 242/2009 filed before the Principal Bench by Dr. Chandra Shekhar Sahukar, Assistant Commissioner (Piggery) in the Department of Animal Husbandry and Dairying seeking grant of DACP. The OA was dismissed being bereft of merit. The principal Bench observed that "Taking into account totality of facts and circumstances of the case and the settled legal position, we come to the considered conclusion that the applicant is not covered by DACP in 5th and 6th CPC and is covered under MACPS under the 6th CPC." He, therefore, submitted that the orders of the Tribunal have been complied with and hence no contempt lies against the respondents.

12. We have carefully perused the records and considered the averments made. We are of the opinion that the order of the Tribunal passed in OA 56 of 2006 was to take a decision about implementation of recommendations of the 5th CPC with regard to Veterinary doctors, if required by taking a decision about restructuring of the cadre within a period of three months. This includes parity



with DGMOs in terms of pay scales, allowances, career prospects etc. If as per the respondents, DACP was not recommended for Veterinary Officers by the 5th CPC, how the consideration and decision on that issue alone can be interpreted as complying with the directions of the Tribunal which clearly stipulates decision about implementation of the recommendations of the 5th CPC with regard to Veterinary Doctors. DACP may be one of the issues related to parity. While the issue of DACP has been considered by the Government, there is no mention in any of the communication mentioned above or in show cause replies that other issues of parity were considered in pursuance of the order of the Tribunal.

13. We are, therefore, of the opinion that the respondents have not complied with the order passed by this Tribunal in OA No. 56 of 2006 in its letter and spirit and hence they have committed contempt of the Tribunal. However, in view of the complex nature of the issues involved and the procedure required to be followed in taking such a decision, we allow the respondents, especially respondent no. 1, to purge the contempt by taking a decision and passing appropriate orders in pursuance of the order dated 07.08.2007 passed by this Tribunal in OA No. 56/2006 within a period of three months from the date of receipt of a copy of this order.



[Akhil Kumar Jain]
Member[A]
srk.



[Anwar Ahmad]
Member[J]