

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 990/94

DATE OF DECISION: 29.11.2000

Dr. Ramakant Zargar and four others Applicant.

Shri S.P. Saxena Advocate for  
Applicant.

Versus

The Union of India and others Respondents.

Shri R.K. Shetty Advocate for  
Respondents

**CORAM**

Hon'ble Shri B.S. Jai Parameshwar, Member(J)

Hon'ble Smt. Shanta Shastri, Member(A)

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to  
other Benches of the Tribunal?

(3) Library.

  
(B.S. JAI PARAMESHWAR)  
MEMBER(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO: 990/94

WEDNESDAY the 29th day of NOVEMBER 2000

CORAM: Hon'ble Shri B.S. Jai Parameshwar, Member(J)

Hon'ble Shri Shanta Shastry, Member (A)

1. Dr. Ramakant Zargar  
Professor and Head of  
the Department of Anatomy  
Armed Forces Medical  
College, Pune.
2. Dr.(Mrs) Neela Vidyadhar Jog  
Professor of Physiology in  
Armed Forces Medical  
College, Pune.
3. Dr. Bana Bihari Nayak,  
Professor and Head of the  
Department of Pharmacology in  
Armed Forces Medical  
College, Pune.
4. Dr.(Miss) Ashalata Narayan Nandedkar  
Reader in Anatomy in  
Armed Forces Medical  
College, Pune.
5. Dr. Alka Nirranjan Sontakke,  
Reader in Bio-Chemistry in  
Armed Forces Medical  
College, Pune.

...Applicants.

By Advocate Shri S.P.Saxena.

V/s

1. Union of India through  
Secretary,  
Ministry of Defence,  
South Block, New Delhi.
2. Director General  
Armed Forces Medical Services  
Ministry of Defence  
'M' Block, New Delhi.
3. Commandant,  
Armed Forces Medical College  
Pune.

...Respondents.

By Advocate Shri R.K. Shetty.

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the case of General duties and teaching speciality sub-cadres in the Central Health Service. The Ministry of Health and Family Welfare have stated the Central Health Service can be considered on a request from the Ministry of Defence.

63.152 We have considered these issues in detail and recommend that the posts of Professors and Readers in AFMC may be encadred in the CHS. Readers who have completed the prescribed lengths of service as per Tikku Committee's recommendations for grant of higher scale may be placed in appropriate scales before merger. The career prospects of the erstwhile Demonstrators have improved substantially after their redesignation and provision of three grades in the scales of Rs. 2200 - 4000, Rs. 3000 - 4500 and Rs. 3700 - 5000. These redesignated civilian Medical officers should also be encadred in the CHS. The general recommendations on promotion prospects of GDMOs will apply to them.

6. The learned counsel for the applicant submits that the applicants are eligible for scale of pay of Rs. 3700 - 5000 with effect from 1.1.1986.

7. On the contrary the learned counsel for the respondents submits that the order dated 10.11.1995 in OA 281/91 is not applicable to the applicants. Further he submits that as per Exhibit R-2, the cases of the applicants have been considered carefully and have been recommended to the Government and the Government has to take a decision in the matter. He further submits that it is for the Government to take a decision on the basis of the recommendations made by the Ministry of Defence (AFMC). He submits that when AFMC, Pune had recommended the case of the applicants, the Ministry of Defence will take a decision.

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3. The respondents have filed reply. They submitted that the applicants cannot compare their duties with their counter parts in other departments. Further they submit that the recommendations of the Tikku Committee is not applicable to the Doctors working in the Ministry of Defence. They submit that fixation of pay or grant of scale of pay cannot be entertained by the Court or Tribunal and the Court or Tribunal cannot issue such mandatory direction to the respondents.

4. During the course of arguments, the learned counsel for the applicants brought to our notice a decision of this Tribunal in OA 281/91 decided on 10.11.1995 {Indian Naval Civillian Officers Association through President Dr (Mrs) Pushpa Deshpande V/s Union of India and others}. The learned counsel for the applicant submits that the applicant, No.1 and 3 will be satisfied if they are given a similar direction as given in OA 281/91. Further he submits that to secure such benefit he had filed M.P. 175/97 which came for hearing on 1.9.1997. Then the following directions were issued:

Applicant had filed M.A. 175/97 for directing the respondents to consider extension of implementation of judgement in OA 281/91.

In the circumstances the respondents to consider the request of the applicant within a period of three months.

5. Further the learned counsel for the applicant relied upon the recommendations of Vth Central Pay Commission. We feel it proper to reproduce the Annexure Exhibit R-2 which is at page 144 of the paper book.

63.151 Ministry of Defence have informed that the posts of Professors and Readers of AFMC. Pune are isolated categories. The basic job of these doctors is to provide medical cover and teach the under-graduate and post-graduate students as in

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8. The learned counsel for the applicant submits that Vth Central Pay Commission have recommended their case and there was no justification for the Ministry of Defence to take a matter for nearly three years to arrive at a decision. Further the learned counsel for the applicants submitted that the applicants had waited for nearly three years and the Ministry has not taken a decision and they must be directed to take a decision within one month.

9. After considering the rival submission made by the parties, we feel that applicant No.1 and 3 are eligible for the scale of pay of Rs. 3700 - 5000 on the basis of the recommendations of the Tikku Committee. We find no reason for the respondents to delay the matter for nearly three years when the AFMC, Pune has also recommended the case of the applicants. Further the applicants No.1 and 3 are eligible to the benefit as extended to the applicants in OA 281/91 decided on 10.11.1995.

10. Hence we feel it proper to direct the respondents to take a decision as to whether the applicants are eligible to the benefits that have been given to the applicants in OA 281/91 decided on 10.11.1995. Further the respondents while taking a decision should consider the recommendation of Tikku Committee and the recommendations of the Vth Central Pay Commission and arrive a judicious decision. We hope and trust that the Ministry of Defence <sup>will</sup> ~~to~~ take the decision as expeditiously as possible preferably within four months.

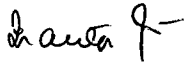


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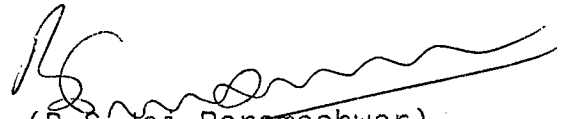
11. After the pronouncement of the order the learned counsel for the applicant submits that the matter be posted for hearing after four months. We have given sufficient time to the respondents. We do not feel it necessary to post the OA for hearing. The request of the learned counsel for the applicants is rejected.

12. The application is disposed of accordingly. No Costs.



(Ms. Shanta Shastry)  
Member(A)

NS

  
(B.S. Jai Parameshwar)  
Member(J)  
29.11.2000

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**MUMBAI BENCH, MUMBAI.**

**C.P. 59/2001 in**  
**ORIGINAL APPLICATION NO:990/94**

**TRIBUNAL'S ORDER**

**DATED: 5.10.2001.**

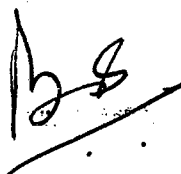
We have heard the Learned Counsel Shri R.R. Shetty for Shri R.K. Shetty for the alleged Contemner and also Shri S.P. Saxena for the original applicant.

2. We have carefully seen the directions that have been issued in the OA (at para 10) (Judgement dated 7.9.2001). A copy of this (Exhibit AF -1) has been filed by Shri Brig J.K. Sethi Brigadier in Respondent's organisation:

3. The point made by Shri S.P. Saxena is that the directions have not been implemented. Admittedly the DPC pursuant to the order is yet to be held.

4. We note that the order in substance has been complied with. The only point remaining is convening of the DPC. We are informed by Shri R.R. Shetty on instructions, that all the applicants are within the zone of consideration and will be considered by the DPC. Further it is stated that DPC is expected to be held within two months. Unfortunately it is stated that UPSC still has not been approached.

5. However in the matter of convening DPC and taking follow-up action. The action that now remains is in the nature of follow up i.e. convening of DPC and



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