

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 1122/95

DATE OF DECISION: 16-1-2001

<u>Dr. T.Kamble.</u>	<u>Applicant.</u>
<u>Applicant in person.</u>	<u>Advocate for</u> <u>Applicant.</u>
	<u>Versus</u>
<u>The Secretary Ministry of Home Affairs</u> and others.	<u>Respondents.</u>
<u>Shri R.K. Shetty</u>	<u>Advocate for</u> <u>Respondents</u>

CORAM

Hon'ble Shri Kuldip Singh, Member (J)

Hon'ble Ms. Shanta Shastry, 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.


(Kuldip Singh)
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:1122/95

the 16th day of JANUARY 2001

CORAM: Hon'ble Shri Kuldip Singh, Member (J)

Hon'ble Ms Shanta Shastry, Member (A)

Dr.Tamradhwaj Kamble
Residing at
P.H.C. Kilvani, Staff Quarters
Union Territory of Dadra
and Nagar Haveli, Silvassa.

...Applicant.

Applicant in person.

V/s

1. Union of India through
The Secretary,
Ministry of Home Affairs,
Department of Personnel and
Administrative Reforms,
North Block, New Delhi.
2. The Secretary,
Ministry of Health and
Family Welfare,
Department of Health,
Nirman Bhavan, New Delhi.
3. The Administrator,
Union Territory of Dadra and
Nagar Haveli, Silvassa.

...Respondents.

By Advocate Shri R.K. Shetty.

O R D E R
{Per Shri Kuldip Singh, Member (J)}

The applicant in this OA was appointed as Assistant Medical Officer Class III (AMO), in pursuance of an advertisement issued by the respondent vide order dated 30.9.1985 Annexure 'F' offer of appointment was issued vide letter dated 20.9.1985 (Annexure E).

2. The Grievance of the applicant are that he holds the Degree in Ayurvedic Science i.e. B.A.M.S. But it had never been clarified that he will have to practice as AMO in allopathic field of Modern Science. He further alleges that he is being compelled to practise allopathic system in contravention of Section 15 and 17 of the Indian Medical Council Act, 1956. The applicant had earlier also filed an OA 618/93 regarding allocation of duty, so that he may practise in Ayurvedic System of Medicine. Since his representation had not been decided so the OA was disposed of with the direction to the respondent to pass a speaking order on his representation.

3. Though his representation was disposed of yet the applicant was not satisfied and has filed the present OA. In the OA the applicant is seeking following reliefs.

4. Applicant claims compensation as he alleges that his career has suffered since he could not practise in Ayurvedic system and he was forced to practise Allopathy. So by way of compensation he should be paid difference of salary as admissible to AMO III and the other Medical Officer who came with MBBS Degree. On this aspect the applicant has also relied upon a ruling reported in AIR 1962 SC 933 State of Rajasthan V/s Vidyawati.

5. For this very relief he has also pressed the doctrine of Equal pay for equal work and relied upon a ruling of Randhir Singh V/s Union of India {1982 SLJ (1) SC 490}.

6. The applicant has also pressed the provision of Indian Medical Council Act 1956 and submitted that since the applicant is forced to contravene the provision, he became liable for punishment also.

7. The respondents are contesting the OA and submit that applicant is demanding pay scale of Rs. 635 - 1200 instead of Rs. 425 - 700 and then relevant replacement scales as given by successive Pay Commissions.

8. To counter the same, respondent say that prescribing a scale for a particular post is the job of Government and not the function of Tribunal as held in Cateha of judgements given by the Hon'ble Supreme Court.

9. The respondents further submit that applicant was appointed as AMO III in the pay scale of Rs. 425 - 700 and applicant accepted the same vide his joining report Exhibit R -1.

10. The respondents further say that applicant has not made out any case that his duties and responsibilities are identical with Doctors having MBBS Degree.

11. It is further stated that initially the applicant was appointed at Cottage Hospital Silvassa in the Ayurvedic clinic. Already there was a Group 'B' M.O. (Ayurvedic).

12. Thereafter the applicant was posted at Kilwani P.H.C and during his posting there he was simply assisting M.O./PHC Kilwani. It is denied that applicant was ever forced to practise in allopathy. Rather while posting, the applicant at Radha Dispensary he was directed to work in medicine in which he was qualified.

13. The applicant was never directed to act against the rules of Indian Medical Council Act or Central Council for Indian Medicine Act.

14. The respondents thus prayed for dismissal of the OA.

15. We have heard the applicant who argued in person and Shri R.K. Shetty for the respondents.

16. The submission of the applicant and claim preferred by him in this OA show that applicant wants damages / compensation under law of Torts as well as raise in his salary on the doctrine of equal pay for equal work.

17. As regards claims of Compensation / damage under law of torts is concerned we may mention that Tribunal is not vested with jurisdiction to grant damage / compensation under law of torts. Ruling of State of Rajasthan V/s Vidyamati (Supra), relied upon by the applicant and referred to in pleadings, therefore does not help the applicant at all.

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18. Now coming to grant of equal pay for equal work, we find the applicant does not satisfy any of the essential ingredients of the doctrine of "equal pay for equal work".

19. There is difference in qualification since applicant is BAMS and he seeks parity with MBBS Doctor. Applicant himself admits that he cannot practise allopathy.

20. The applicant was appointed as AMO III Group C and he seeks parity with Medical Officers Group 'B'.

21. Rules of recruitment are also different. Merely because at some time when Medical officer is on leave the applicant is asked to look after his charge does not mean that he was performing equal duties and discharging equal responsibilities.

22. In this regard we are also fortified by an order of this Tribunal in case of Dr. Prabhakar D. Kasodekar and ors. V/s Union of India and others {OA No 5/95} where the applicants having integrated degree in Allopathy and Ayurvedic system had claimed parity of pay scale and three OAs were dismissed. The said judgement is also binding on us. Following the ratio of the said judgement we find that case of applicant is also similar rather still of lower merits because applicant is not having even integrated Degree of Allopathy. Hence, we are of the view that the OA has no merit and same is liable to be dismissed.

23. Accordingly we dismiss the OA. No costs.

Shanta Shastry
(Ms. Shanta Shastry)
Member (A)

Kuldip Singh
(Kuldip Singh)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

Review Petition No. 11 of 2001 in
O.A. No. 1122 of 1995

Tuesday this the 15th day of April, 2001

HON'BLE MR. KULDIP SINGH, MEMBER (J)
HON'BLE MRS. SHANTA SHASTRY, MEMBER (A)

Dr. Tamradhwaj KambleApplicant

Versus

Union of India through

1. The Secretary,
Min. of Home Affairs,
Department of Personnel & Administrative Reforms,
North Block, New Delhi.
2. The Secretary,
Min. of Health & Family Welfare,
Department of Health,
Nirman Bhavan,
New Delhi.
3. The Administrator,
Union Territory of Dadra and Nagar Haveli,
Silvassa-396 230. ..Respondents

ORDER BY CIRCULATION

Hon'ble Mr. Kuldip Singh, Member (J)

RA 11 of 2001 has been filed by the applicant to review
the order passed in OA 1122/95 on 16.1.2001.

2. By means of the present RA the applicant is trying to
justify that there are errors/omissions in the judgment as
such RA be heard. We may mention that all the grounds taken
by the applicant in the OA were dealt with us in depth and there
is no error apparent on the face of the record which may warrant
a review and the case of the applicant is covered by the decision

[Signature]

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given in OA No.5/95 - DR. Prabhakar D. Kasodekar and Others VS. U.O.I. & Others wherein also the applicants had prayed for the same relief like the present applicant but the same was rejected. Hence, the OA filed by the applicant was rejected. Accordingly, the present RA does not fall within the ambit of provisions of Order 47 Rule 1 CPC which may call for the review and the RA filed by the applicant is rejected.

In answer of

(MRS. SHANTA SHAstry)
MEMBER (A)

Kuldeep

(KULDIP SINGH)
MEMBER (J)

Rakesh

dl. 17/24101
order/17/24101 recd
to Applicant/24101
on 24101

No