

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No. 559/97

Transfer Application No.

Date of Decision 5.12.1997

Dr. R.K. Zargar

Petitioner/s

Shri S.P. Saxena

Advocate for  
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri R.K. Shetty

Advocate for  
the Respondents

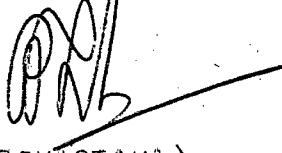
CORAM :

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman

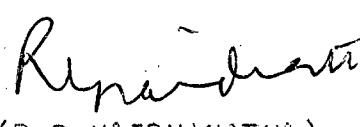
Hon'ble Shri. P.P. Srivastava, Member (A)

(1) To be referred to the Reporter or not ? *g* *No*

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

  
(P.P. SRIVASTAVA)

MEMBER (A)

  
(R.G. VAIDYANATHA)

VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

OA NO. 559/97

Friday this the 5th day of December, 1997

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman  
Hon'ble Shri P.P.Srivastava, Member (A)

Dr.R.K.Zargar  
Professor & Head of  
Department of Anatomy,  
A.F.M.C. Pune-411 040.

By Advocate Shri S.P.Saxena ... Applicant  
V/S.

1. The Union of India  
Through The Secretary,  
Ministry of Defence,  
New Delhi.
2. The Director General of  
Armed Forces Medical Services,  
'M' Block, New Delhi.
3. The Commandant,  
A.F.M.C. Pune.

By Advocate Shri R.K.Shetty  
C.G.S.C. ... Respondents

ORDER

(Per: Shri Justice R.G.Vaidyanatha, VC)

This is an application under Section 19  
of the A.T.Act. Respondents have filed reply. The  
point involved is a very small point. With the  
consent of both the counsels, we have taken this  
application for final disposal at the stage of admission  
itself. Heard both sides.

2. The applicant is working in the Armed  
Forces Medical College at Pune came to be promoted  
as Professor and Head of the Department of Anatomy  
as per order dated 15.4.1989. But the order could  
not be implemented since another candidate Mr.G.Purohit  
filed Writ Petition in the High Court in W.P.NO.1758/1989



and obtained a stay order. Subsequently, Mr. Purohit retired some time in early part of 1991 and as a result the applicant took charge as Professor and Head of the Department in Anatomy as per the order of promotion dated 15.4.1989.

3. Now, the applicant's case before this Tribunal is that he is entitled to get arrears of pay from 15.4.1989 itself and all other consequential reliefs.

4. Respondents have filed reply opposing the applicant's prayer for arrears of pay etc. from 15.4.1989.

5. At the time of hearing, it is brought to our notice that the Writ Petition came to be transferred to this Tribunal and is numbered as OA.No. 117/97 and it came to be disposed of on 21.7.1997. After that order, the applicant has preferred the present OA.

6. The applicant now has been working as Professor <sup>from</sup> till 15.4.1991. The short question is whether he is entitled to any benefit retrospectively from 15.4.1989. The order of promotion could not be effected due to stay order granted by the High Court and not due to any default on the part of the respondents. Admittedly, the applicant has not worked in the promotional post from 15.4.1989 till 15.3.1991. Hence, in our view, the applicant is not entitled to any arrears of salary during that period. However, he is entitled to notional fixation of his salary and allowances from 15.4.1989 in the promotional post.



7. Now, the question is as to from what date the applicant is entitled to monetary benefits. The present application is filed on 26.5.1997. In our view, the arrears of pay and allowances to be granted only for a period of one year prior to the date of present application.

8. In the result, the OA. is allowed partly. The applicant is deemed to have been promoted as Professor from 15.4.1989 and he is entitled to seniority and notional fixation of salary from that date. However, the applicant is granted arrears of pay and allowances only from one year prior to the date of present application and onwards. In other words, the arrears are restricted only for a period of one year prior to the date of present application which is filed on 26.5.1997. Respondents are granted three months time to pay arrears. In the circumstances of the case, there is no order as to costs.



(P.P.SRIVASTAVA)

MEMBER (A)



(R.G.VAIDYANATHA)

VICE CHAIRMAN

mrj.