

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 177/98

MONDAY the 11th day of MARCH 2002

CORAM: Hon'ble Shri S.L. Jain, Member (J)

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

V.M. Radhakanthan
Senior Personnel Assistant
Armed Forces Medical College
Wanori, Pune.

...Applicant.

By Advocate Shri S.P. Saxena.

V/s

1. Union of India through
The Secretary,
Ministry of Defence,
DHQ PO, New Delhi.
2. The Director General of
Medical Services,
Ministry of Defence,
M-Block, DHQ PO New Delhi.
3. The Commandant
Armed Forces Medical College,
Wanori, Pune.

...Respondents

By Advocate Shri R.K. Shetty.

ORDER (ORAL)

{Per S.L.Jain, Member (J)}

This is an application under Section 19 of the
Administrative Tribunals Act. 1985, seeking the relief as under:

(a) to quash and set aside the letter dated
23.5.1997.

(b) to declare that the Applicant is entitled for
upgradation to the post of Senior Personnel Assistant with
effect from 1.1.1986.

(c) to direct the Respondents to refix the pay of the
Applicant in the scale of pay of Rs. 2000 - 3200 with
effect from 1.1.1986 on notional basis and grant him the
annual increments as per Rules.

S. Jain

...2...

:2:

- (d) to award all consequential benefits.
- (f) to award cost of the application.

2. The applicant has filed OA 792/89 which was decided by this Tribunal vide its order dated 3.7.1991 which is as under:

In the result we hereby direct the respondents to consider in its proper perspective with due regard to what is stated above, the question of upgrading the post of Stenographer attached to the Commandant, Armed Forces Medical College, Pune to the Grade of Rs. 2000 - 3200 and to arrive at a decision within a month of receipt of copy of this order. In case the decision is in the affirmative, respondents shall fill up the post without delay, in accordance of with the Rules.

3. The grievance of the applicant is that OA 729/93 and 1023/93 filed by Shayam Jagannath Vaidya and P.M. Haridas and others were decided vide order dated 8.8.1995. The decision in the said OA was subject to SLP which was dismissed by the Apex Court. The SLP was dismissed without going to the merits or recording any reasons on the basis of the order passed in OA 729/92 and 1023/93 confirmed by the order of the Apex Court. The applicant's case is revived and deserves to be reconsidered.

4. The learned counsel for the applicant argued that the applicants in OA 729/92 and 1023/93 form the same group alongwith the applicant, are getting the benefit while the applicant is not getting the benefit. Therefore Article 14 is being violated. The arguments appear to be based on principle of equality before law.

Allyn

...3...

5. Suffice to state that case of the applicant was decided by the Tribunal and has ^{attained its} ~~attached~~ its finality as he has not agitated the matter further. The applicant is not entitled to any relief in view of applicability of principles of Res-judicata. Article 14 is not an exception to the principle of Res-judicata. As such the OA has no merit and the same deserves to be dismissed and is dismissed accordingly. No Costs.

hawa 7

(Smt. Shanta Shastry)
Member (A)

P.L. Jain
(S.L. Jain)
Member (J)

NS

dt 11/3/92
Order/Judgement despatched
to Applicant respondent (s)
~~on 27/3/92~~

W