

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

**TA No. 060/00003/2014
(CWP No. 11635/2006)**

Date of decision- 18.09.2014.

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

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Dr. Sumitra Dash (Retd. Professor of Haematology, Post Graduate Institute of Medical Education & Research, Chandigarh) resident of H. NO. 97, Sector 24-A, Chandigarh.

...APPLICANT

BY ADVOCATE : Sh. Sudhir Mittal

VERSUS

1. Union of India, Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi - 110 011 through its Secretary.
2. The Secretary, Ministry of Finance, Government of India, New Delhi.
3. Post Graduate Institute of Medical Education & Research, Sector-12, Chandigarh through its Director.

...RESPONDENTS

BY ADVOCATE: Sh. Sanjay Goyal

ORDER (ORAL)

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HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-

1. Heard.
2. The applicant at first instance had approached the Hon'ble High Court by filing CWP No. 11635/2006 wherein he had sought issuance of a writ in the nature of certiorari quashing the order

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dated 13.09.1999 (Annexure P/7) and order dated 05.07.2005 (Annexure P/19).

3. Later on, the Hon'ble High Court vide its order dated 06.11.2013, transferred the above said writ petition to this Tribunal as the jurisdiction qua employees of PGI stood conferred upon latter to adjudicate their service matters.
4. When the matter came up for hearing before this Tribunal, learned counsel for the applicant submitted that case of the applicant is squarely covered with the decision rendered in TA No. 10/CH/2010 titled **Dr. S.Majumdar & Ors. Vs. Union of India & Ors.** decided on 29.10.2010, therefore, he submitted that once this Tribunal has already clinched the issue and the same has been upheld by the Hon'ble High Court in CWP No. 13860/2011, which was dismissed on 11.10.2013, as withdrawn, and even the order of the Hon'ble High Court has attained the finality as till date no appeal has been filed, this T.A may also be disposed of in the same terms as in TA 10/CH/2010.
5. Upon notice, the respondents appeared through Sh. Sanjay Goyal, Advocate. He did not dispute that the issue has already been decided by this Court. He submitted that as per the para 1 of the petition, the applicant is appointee of year 1975, therefore the benefit of that judgment cannot be extended to him.

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6. On the other hand, learned counsel for the applicant submitted that he has also moved an MA No. 060/01065/2014, wherein he has annexed copy of order dated 02.05.1974, vide which he was appointed against the leave vacancy and, thereafter, vide appointment order dated 29.01.1975, he joined on temporary basis, thereafter, PGI passed an order dated 15.10.1984 whereby the services of the applicant were confirmed w.e.f. 31.01.1977. He submitted that the case of the applicant is to be considered, as Dr. S. Majumdar, who stood at S. No. 22, was confirmed w.e.f. 14.10.1979 vide same order i.e from a date subsequent to the applicant. Therefore, objection raised by the respondents is only to delay the matter and not to grant the same benefit, as granted to Dr. S. Majumdar, without any lawful reason.

7. Perusal of the pleadings and the order dated 15.10.1984 makes it clear that the respondents confirmed the applicant w.e.f. 31.01.1977, who was at S. No. 10 and on the other side Dr. S. Majumdar got his confirmation w.e.f. 14.10.1979. He had filed TA 10/CH/2010 before this Tribunal and same was allowed vide order dated 29.10.2010 as affirmed by the Hon'ble High Court granting him the relevant benefits.

8. In view of the date of confirmation of applicant being prior in point of time than Sh. Majumdar, the objection taken by the respondents falls to the ground. Therefore, we are left with no other option but to accept the present TA. Resultantly, the impugned orders are quashed and set aside. The applicant is held entitled to get the same benefit as granted to the applicant in TA 10/CH/2010.

9. TA stands disposed of, accordingly.

10. No costs.


(UDAY KUMAR VARMA)
MEMBER (A)


(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 18.09.2014.

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