

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

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**OA No.060/00125/2016 &
MA No.060/01779/2017**

**Reserved on : 31.10.2018
Pronounced on : 19.11.2018.**

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

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PGI Medical Technologists Association, Chandigarh through Ashwani Kumar Munjal its General Secretary.

....APPLICANT

(Present: Applicant in person)

VERSUS

1. Postgraduate Institute of Medical Education and Research, Chandigarh through its Director.
2. The Standing Finance Committee of Postgraduate Institute of Medical Education and Research, Chandigarh through its Chairman, Secretary to GOI, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi-110011.

....RESPONDENTS

(Present: Mr. Amit Jhanji, Advocate.)

ORDER

HON'BLE MRS. P. GOPINATH, MEMBER (A) :-

1. The present Original Application (OA) has been filed by the PGI Medical Technologists Association, Chandigarh through its General Secretary.
2. The relief sought in the present OA, is that, Para 2 of the impugned orders dated 12.08.1994 (Annexure A-9) and 01.07.2015 (Annexure A-24) be set aside.

3. On the last date of hearing i.e. 28.09.2018, while arguments were being presented, the issue arose before us as to whether all the persons shown in Annexure A-10, list of members were similarly placed, as we noticed that some of the persons were engaged as temporary employees, some others were engaged as contract employees, and hence whether they are represented by one and the same association.
4. The second issue that arose before the Bench, is that, a blank copy of the appointment letter has been placed on record as Annexure A-2. Since the list of persons comprised of two different categories, hence, the Bench had also directed that their initial appointment status be also produced.
5. The applicant argues that his contention for clubbing together multiple categories of persons in one OA is supported by order in RA No.495 of 2014 in CWP No.5932 of 2014, wherein the Hon'ble High Court has held as follows:-

"The word 'a person' appearing in Section 19 of the Act would include the person as defined under Section 3 (42) of the General Clauses Act, 1897, which includes the association of persons as well. Therefore, an association of persons claiming relief for the employees holding civil posts could be entertained, if no decision has been communicated on the representation made. Therefore, a representative action for the benefit of class of employees holding civil posts could be filed before the Central Administrative Tribunal in respect of service matters, as defined under the Act."

6. The respondents handed over at the Bar the appointment letters of the persons represented by the applicant. On a perusal of some documents handed over to the Bench we

noticed that one Ms. Ujjwal Kaur has been engaged on temporary as adhoc basis as Senior Laboratory Technician in a project entitled "A sturdy of Electrophysiology Properties of the Heart Musele and the effect of some Pharmacological Agents". A second person Mr. Satish Chander, has been engaged on in a temporary post of Senior Technician in the Department of Endocrinology. Another person Mr. Kushwinder Singh, has been engaged on the tenure post of Junior Lab Technician on contract, and so on. There are several such appointment letters of members of the applicant-association, which are produced by the respondents. Whereas, some persons were engaged for a period of six months, some others were engaged for a period of three months, and some others were engaged for a period of one year. Some of the members of the association were appointed in a tenure post, whereas some others are offered a temporary post, and still some other persons are appointed to a department, whereas, some others are appointed to projects like "A study of Electrophysiology Properties of the Heart Musele and the effect of some Pharmacological Agents". So, whereas some persons were appointed to the department, some others were appointed to projects. Still some other persons have also been appointed on contract against the Institute Research Project. In addition some other applicants constitute a group of retired persons.

7. On a perusal of the documents placed before us, we find that all the applicants are not similarly placed and cannot be

represented by one association. Further Annexure R-2 placed on record by the respondents also specifically states as follows:-

"I am directed to refer to your letter No.PGI/Accts/94/26754 dated 28.11.94 on the subject cited above and to say that the matter was taken up with the Financial Division of the Ministry and it is clarified that there is no provision for considering the grant of next increment under sub-rule 1 of the Rule 7, as represented by the employees. However, considering that issue basically relates to the grant of next increment, this may be ignored. The date of next increment in the revised scale is to be considered with reference to Rule 8 in respect of these employees given the scale as per CCS (Revised) Pay Rules, 1986. The PGI Research staff, in question, were given the minimum of the scales as a package apparently after applying the proviso (a) to Rule 7 (1) (A) of the revised pay rules and they accordingly do not fall under the exceptions indicated at Note 3, 4 or 7 to sub-rule 1 of Rule 7 of the CCS (RP) Rules, 1986 in whose case the next increment shall be granted after completion of 12 months qualifying service from the date of stepping of their pay in the revised scale. Accordingly, the employees given the minimum of the pay in the revised scale qualify for the grant of next increment in the revised scale on the date they would have drawn increment, had they continued in the pre-revised scale.

This issues with the approval of JS (FA) of the Ministry."

8. An objection has been raised by the respondents that some of the applicants are retired persons and cannot be represented by a serving official association. It is apparent from the above documents which we have perused that the applicants represent different categories of persons engaged under different conditions and cannot be clubbed together as one body to be represented by one association. Even argument has been made that the plea of the applicants has been turned down by the above order of the respondents by stating that they are covered by a package, which is also not under challenge as a document which opposes their contention. The applicants need to be segregated on the basis of terms of engagement into separate categories, and

further as in-service of retired persons, so that the applicability or non-applicability of Annexure R-2 issued by the respondents can be examined in respect of each category. Applicants appear to have been engaged, on the basis of a package with its own terms and conditions, which has also not been challenged.

9. Since relief is being sought for three categories as asked above, therefore, objection raised by the respondents about maintainability of a single petition to represent three categories of persons and to be upheld by a single order appears to be convincing. This is not the spirit of Rule 4 (5) of the 1997 CAT Rules. Applicant during arguments is also going beyond the pleadings as he has not annexed complete documents for the relief claimed in the OA therein, and each time was handing over document across the table, for which obviously the respondents are to be given time to verify and reply.
10. We, therefore, dismiss the instant OA, on the basis of maintainability in its present forum being a joint petition, with the liberty to the applicant, that they can move a fresh petition on same cause of action, impugning the particular order being assailed.
11. Connected MA also stands disposed of.

**(SANJEEV KAUSHIK)
MEMBER (J)**

**(P. GOPINATH)
MEMBER (A)**

Dated: 19.11.2018

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