



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

**No. O.A. 351/00368/2019
M.A. 351/00238/2019**

Date of order : 03.04.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

1. Dr. A.K. Saha,
S/o Late S.C. Saha,
Chief Medical Officer
Posted as In-Charge,
District Jail Hospital,
Prothrapur,
Port Blair - 744 105.
2. Dr. Suja Antony,
W/o. C.J. Antony,
Chief Medical Officer,
Posted at G.B. Pant Hospital,
Port Blair - 744 104.
3. Dr. K.L. Joardar
S/o. Late N.N. Joardar,
Chief Medical Officer,
Posted at G.B. Pant Hospital
Port Blair - 744 104.
4. Dr. Siddha Raju,
S/o. Late Mahadev,
Chief Medical Officer,
Posted as Deputy Director Family Welfare,
Directorate of Health Services,
Port Blair - 744 104.
5. Dr. Anwar Moosa,
S/o. Late Moosa Ali,
Chief Medical Officer,
Posted at BJR Hospital,
Car Nicobar - 744 301.
6. Dr. Nicolas,
S/o. Late Magnes,
Chief Medical Officer,
Posted at G.B. Pant Hospital,
Port Blair - 744 104.
7. Dr. P.K. Palit,

Re: b/w

S/o. Sadhan Kumar Palit,
Chief Medical Officer,
Posted at G.B. Pant Hospital,
Port Blair - 744 104.

8. Dr. C. Jameela Banu,
W/o. C. Hamza,
Chief Medical Officer,
Posted at CHC Bambooflat,
South Andaman,
Port Blair - 744 107.

9. Dr. Ganesh Samadder,
S/o. Late S.N. Samadder,
Chief Medical Officer,
Posted at G.B. Pant Hospital,
Port Blair - 744 104.

10. Dr. M.P. Susamma,
W/o. P.V. Jacob,
Chief Medical Officer,
Posted at CHC Bambooflat,
South Andaman - 744 107.

11. Dr. Shiny Verghese,
W/o. M. Jacob Kutty,
Chief Medical Officer,
Posted at G.B. Pant Hospital,
Port Blair - 744 104.

12. Dr. A.K. Das,
S/o. Late D.L. Das,
Chief Medical Officer,
Posted at G.B. Pant Hospital,
Port Blair - 744 104.

13. Dr. B. Ajit-Kumar,
S/o. Late E.A. Basu Kumar,
Chief Medical Officer,
Posted at PHC Billiground,
North & Middle Andaman,
District - 744 201.

14. Dr. Arpita Saha,
W/o. A.K. Saha,
Chief Medical Officer,
Posted at G.B. Pant Hospital,
District - 744 201.

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15. Dr. Damyanti,
W/o. Dr. Ganesh Samadder,
Chief Medical Officer,
Posted at G.B. Pant Hospital,
Port Blair - 744 104.
16. Dr. Grace,
W/o. Late Harry,
Chief Medical Officer,
Posted at G.B. Pant Hospital,
Port Blair - 744 104.
17. Dr. Izra Begum,
W/o. M.D. Mansoor,
Chief Medical Officer,
Posted at PHC Garacharama,
Port Blair,
South Andaman - 744 105.
18. Dr. Jyothi,
W/o. Shri V. Upendran,
Chief Medical Officer,
Posted at G.B. Pant Hospital,
Port Blair - 744 104.
19. Dr. K.P. Felicitus,
W/o. Timothy Francis,
Chief Medical Officer,
Posted at BJR Hospital,
Car Nicobar - 744 103.
20. Dr. P. Lal,
S/o. Late P.L. Papachen,
Chief Medical Officer,
Posted at G.B. Pant Hospital,
Port Blair - 744 104.
21. Dr. Rekha Verma,
W/o. Dr. Ajay Verma,
Chief Medical Officer,
Posted at G.B. Pant Hospital,
Port Blair - 744 104.
22. Dr. Shailaja P.,
W/o. Sarela Ratnam,
Chief Medical officer,
Posted at G.B. Pant Hospital,
Port Blair - 744 104.

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23. Dr. Subrata Saha,
S/o. Late N.C. Saha,
Chief Medical Officer,
Posted at PHC,
Kadamtala – 744 209.

24. Dr. Sujata,
W/o. Dr. Navin Govind,
Chief Medical Officer,
Posted at G.B. Pant Hospital,
Port Blair – 744 104.

25. Dr. S. Sunil Kumar,
S/o. K. Sivanandan,
Chief Medical Officer,
Posted at PHC Hutbay,
Little Andaman – 744 207.

26. Dr. Tamana,
D/o. A.K. Sen Gupta,
Chief Medical Officer,
Posted at PHC Wimerlygunj,
South Andaman

27. Dr. Charles,
S/o. Harold Alfred,
Chief Medical Officer,
Posted at BJR Hospital,
Car Nicobar – 744 301.

Applicants

V E R S U S -

1. Union of India,
Service through Secretary to the
Government of India,
Ministry Health & Family Welfare,
Nirman Bhawan,
New Delhi – 110 001.
2. The Lt. Governor,
Andaman & Nicobar Islands,
Raj Niwas,
Port Blair – 744 101.
3. The Chief Secretary,
Andaman & Nicobar Administration,

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Secretariat Building,
Port Blair - 744 101.

4. **The Principal Secretary (Health),
Andaman & Nicobar Administration,
Secretariat Building,
Port Blair - 744 101.**
5. **The Director of Health Services,
Directorate of Health Services,
Andaman & Nicobar Administration,
Port Blair - 744 101.**

For the Applicants : Mr. R. Singh, Counsel
Mr. B. Bhushan, Counsel

For the Respondents : Mr. R. Halder, Counsel

O R D E R (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicants have approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying primarily for a direction on the respondent authorities for implementing the recommendations of the DPC held on 14.12.2017 in respect of Chief Medical Officer (Non-Functional Selection Grade) and benefits consequent thereon.

2. An M.A. bearing No. 351/238/2019 arising out of O.A. No. 351/00368/2019 has been filed by the applicants praying for liberty for joint prosecution of the O.A.

On being satisfied of the applicants' commonality in cause of action as well as interest, the M.A. is allowed and is disposed of accordingly.

3. Heard Ld. Counsel for both sides; examined documents on record. The matter is taken up at the admission stage.

4. Ld. Counsel for the applicants would submit that the applicants had been promoted to the post of CMO (NFSG) vide orders dated

4/2/2018

17.2.2015 pursuant to DPC held in 2015, which, however, was cancelled in compliance to orders dated 5.1.2016 passed in O.A. No. 351/00179/2015 (*Dr. Thulsidasan - v.- Union of India & ors.*). The matter travelled upto Hon'ble Apex Court. As legally advised, the respondent authorities thereafter constituted a DPC as per recruitment rules of 2013. The DPC met on 14.12.2017 and considered the case of all the CMOs including the applicants in the instant O.A. for promotion to the post of CMO (NFSG) and the recommendations of the DPC were forwarded to the Ministry of Health & Family Welfare, Government of India. As the Ministry, however, has still not decided on the recommendations of the DPC without any cogent justification thereof, the applicants, being aggrieved, have approached the Tribunal by filing the instant O.A.

Ld. Counsel for the applicants submits that the applicants would be fairly satisfied if a direction is issued on the concerned respondent authority to decide on the recommendations of the DPC dated 14.12.2017 in a time bound manner. Ld. Counsel for the applicant also draws attention to the fact that the applicants had prayed for consideration of the respondent authorities in Government of India vide their representation dated 29.10.2018 (Annexure A-9 to the O.A.) but the respondents have failed to take any action thereon.

5. Ld. Counsel for the respondents, although, not objecting to the innocuous submissions of the applicants, furnishes before us the minutes of the Review DPC meeting held on 14.12.2017 as forwarded to the Ministry of Health & Family Welfare, Government of India on 3.1.2018. Ld. Counsel for the respondents also cites the orders of this Tribunal dated 28.3.2019 in O.A. No. 351/00920/2018 in which the applicant had approached the Tribunal on similar cause of action.

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6. Having perused the minutes of the DPC meeting dated 14.12.2017, it is seen that the applicants are enlisted from Srl. Nos. 37 to 56 as well as at Srl. No. 59 of the said proceedings in which they have been recommended for promotion to the post of CMO (NFSG) in the scale of PB-4 - Rs. 37400-67000/- with GP of Rs. 8700/- + NPA (Pre-revised) w.e.f. the dates mentioned in Column 7 therein without linkage of vacancies.

7. In view of the above, we direct the respondent authorities to dispose of the representation of the applicant No. 1 dated 29.10.2018 (Annexure A9 to the O.A.), if received, in accordance with law and to convey their decision in the form of a reasoned and speaking order within a period of four months from the date of receipt of this order. While disposing of the same, respondents are directed to take necessary action on the recommendations of the Review DPC held on 14.12.2017 and to issue appropriate orders, in accordance with law, on the same.

8. The O.A. is disposed of with the directions as above. Although, there will be no order on costs, applicant are directed to deposit individual court fees in the Registry.

9. A copy of the letter dated 3.1.2018, addressed to the Ministry of Health & Family Welfare, enclosing the minutes of the Review DPC held on 14.12.2017, is taken on record.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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