

7

Central Administrative Tribunal, Principal Bench

Original Application No.1232 of 2003

New Delhi, this the 11th day of December, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A. Singh, Member (A)

1. Homeopathic Doctors Welfare Association, Having its office at 4, Begumpur Park, Malviya Nagar, New Delhi-17, through its Secretary Dr. Ravinder Singh S/o Shri Jeevan Lal
2. Dr. (Mrs.) Madhu Sharma
W/o Dr. B.K. Sharma,
R/o P/10, South Extension-II
New Delhi.

.... Applicants

(By Advocate: Shri A.K. Trivedi)

Versus

1. Govt. of N.C.T. of Delhi, through its Chief Secretary, Delhi Secretariat, Delhi.
2. The Principal Secretary (Health & FW) Govt. of NCT of Delhi (H&FW Deptt.) Level-9, A-Wing, Delhi Secretariat, I.P. Estate, New Delhi-2
3. The Additional Secretary (H& FW) Govt. of NCT of Delhi Health & FW Department, Delhi Secretariat, I.P. Estate, New Delhi
4. The Director (ISM&H) Dte. of ISM & Homeopathy, A&U Tibbia College, Karol Bagh, New Delhi.
5. The Deputy Director (H) Nehru Homeopathic Medical College, Campus, B Block, Defence Colony, New Delhi-24

.... Respondents

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicants, by virtue of the present application, seek a declaration that action of the respondents in giving them time bound promotion to the post

ls Ag

of Senior Medical Officer (SMO) with effect from 16.5.2002 is illegal and a direction should be issued to consider their claim for grant of first time bound promotion to the post of SMO from 1.1.2000 i.e. the date when they completed four years of regular service.

2. Some of the facts which are relevant, can be delineated. The applicants had joined the service on 1.1.96 as Junior Medical Officer (JMO). According to them, on 29.10.2001, the Cabinet had taken a decision to provide the Time Bound Progression Scheme for the Medical Officers at par with the Medical Officers working in the Government of India. On 1.1.2002, the Govt. of National Capital Territory of Delhi issued a memorandum for Time Bound Progression Scheme for Medical Officers of the Indian System of Medicine and Homoeopathy. It was decided to give first time bound promotion on completion of four years of regular service. On 16.5.2002, the benefit has been given to the applicants which according to them, should be with effect from 1.1.2000.

3. The petition has been contested. It is not disputed that Medical Officers under the Nehru Homoeopathic Medical College and Hospital had been appointed on regular basis from 1.1.96. Though they had joined earlier but they were redesignated as such with effect from 1.1.96. It is not disputed that cabinet decision on 29.10.2001 had been taken to provide time bound career progression scheme for the doctors in the Indian System of Medicine and Homoeopathy. However, the respondents contend that the

LS Ag

decision had been taken to implement the same prospectively after framing the relevant recruitment rules in view of the Cabinet decision in consultation with the Union Public Service Commission. It is denied that the applicants are entitled to the benefit from 1.1.2000.

4. We have heard the parties counsel.

5. Learned counsel for the applicants relied upon the office memorandum of 1.1.2002 which provides for the first time bound promotion from the level of Medical Officer to the level of Senior Medical Officer in the scale of Rs.10000-15200/- on completion of four years of regular service. It is on the strength of the same that it is contended that the said benefit should be accorded from 1.1.2000.

6. However, the said office memorandum clearly further stipulates:

"These orders shall take effect prospectively after the framing of relevant Rules/Recruitment Rules in view of this Cabinet decision in consultation with Union Public Service Commission after taking necessary approval of Lt. Governor, Delhi."

7. Unfortunately the applicants have not challenged this part of the office memorandum which gives prospective operation to the same from 1.1.2002. Therefore, we are of the considered opinion that in the absence of any challenge to what we have reproduced above from the office memorandum of 1.1.2002, the applicants cannot claim the benefit from

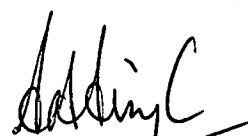
As Ag


1.1.2000.

8. In the alternative, therefore, the learned counsel for the applicants contended that at least the benefit should be accorded from 1.1.2002.

9. At this stage, it will not be out of place to mention that in pursuance of the decision taken vide office memorandum of 1.1.2002 and on the recommendation of the departmental promotion committee, the benefit had been given to the applicants only from 16.5.2002.

10. To our query, we were informed that till date the relevant rules have not been finalised and the matter is under consideration. Once the matter is under consideration, without expressing anything further at this stage, we direct that decision in this regard should be taken to frame the rules as to if the benefit could be accorded from 1.1.2000 which we have referred to above. With these directions, the O.A. is disposed of.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

/dkm/