



2025:DHC:1453-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ W.P.(C) 1751/2024

V K MISHRA .....Petitioner  
Through: Mr. Shree Prakash Sinha, Adv.

versus

UNION OF INDIA AND ANR. ....Respondents  
Through: Mr. Kumar Prashant, Adv. for  
R-2.

**CORAM:**  
**HON'BLE MR. JUSTICE C. HARI SHANKAR**  
**HON'BLE MR. JUSTICE AJAY DIGPAUL**

**ORDER (ORAL)**  
**04.03.2025**

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1. The impugned order passed by the Central Administrative Tribunal<sup>1</sup> in OA 556/2019 dated 2 August 2023 reads thus:

“By virtue of the present OA, the applicant seeks the following reliefs:

“A. Quash of the decision of respondent No.1 as communicated vide letter dated 05/ 10/2018 (Annexure-A) pursuant to the representation dated 04/09/2018 of the applicant in the light of order passed by the Hon'ble Supreme Court of India dated 20/08/2018 in Civil Appeal No. 8362/2018,

B. Direct the respondent No.1 to comply with the representation of respondent No.2 and grant equivalent pay scale to Assistant Registrar (Regn.) as being granted/upgraded in the case of similarly situated post i.e. Assistant Registrar (Ayurved), (Unani) and (Administration); the same being in due deference of the order dated 20/08/2018 of the Hon'ble Supreme Court; and/or

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<sup>1</sup> “Tribunal” hereinafter



C. Pass such other or further order/orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

2. We have heard the learned counsel for the applicant at great length and find that this issue has had a chequered history and got agitated up to the level of the Hon'ble Supreme Court vide Civil Appeal No. 8362/2018 arising out of SLP No. 21416/2018.

3. Before quoting the order of the Hon'ble Supreme Court, it would be worthwhile to briefly mention that the grievance of the applicant is that while the post he was holding i.e. the Assistant Registrar (Registration) was upgraded by way of a resolution of the Central Council of Indian Medicine (CCIM), subsequently, this order/decision of upgradation was reversed on the directions of the Ministry of Ayurveda Yoga and Naturopathy, Unani, Siddha and Homeopathy (AYUSH). This reversal has put the applicant to financial distress and loss.

4. When this matter was taken up by the Hon'ble Supreme Court, it was disposed of with a direction to the CCIM that the amount already paid to the applicant in terms of the salary and allowances of the upgraded post shall not be recovered from him since the applicant stood retired in 2007. However, with respect to the issue of upgradation of the post, the Hon'ble Court gave liberty to the applicant (appellant in the Hon'ble Supreme Court) to file a representation with respect to these aspects before the Central Government who were directed to consider and decide it sympathetically. Vide order dated 05.10.2018, impugned in this OA, the said representation has been decided and the claim of the applicant has been rejected.

5. Learned counsel for the applicant has argued that in terms of the directions of the Hon'ble Supreme Court, the respondents were obliged to take into consideration the entire gamut of facts and circumstances of the case before deciding the said representation. The post had been upgraded pursuant to the resolution of the CCIM and the documents on record to which he has drawn our attention to, clearly indicate that an appropriate proposal was moved to the ministry for such an upgradation. Further, the ministry had also directed the CCIM that the central pay scales as amended from time to time on the recommendations of the Central Pay Commission, shall be applicable to the staff of CCIM and accordingly, the post the applicant was holding, on upgradation, would also be covered under the same.

6. We are conscious of the fact that once the issue has been



considered at the level of the Hon'ble Supreme Court, we are not entitled to reopen the merits of the case. For a holistic appreciation of the issue, it would be appropriate to quote verbatim the order dated 20.08.2018 passed by the Hon'ble Supreme Court:

“Heard learned counsel appearing for the parties.

Leave granted.

In view of the decision in *State of Punjab vs. Rafiq Masih* (2015(4) SCC 334) rendered by this Court on 18th December, 2014, in the peculiar facts and circumstances, the appeals are disposed of leaving the question of law open. We direct that the amount that has been paid to the appellant by Central Council of Indian Medicine shall not be recovered from him since he has retired in 2007.

With respect to upgradation, it was submitted that out of four posts the Central Government has sanctioned pay scale for three posts; for the post of appellant matter is pending with Central Government including the matter of IInd ACP. The proper fixation would effect the pension, we permit the appellant to file representation with respect to both aforesaid aspects to the Central Government, it shall consider the same and decide sympathetically within two months from today in objective manner.

7. It is abundantly clear that the Hon'ble Supreme Court too had not shown much indulgence to the applicant, beyond putting a halt to the recovery and directing the Central Govt. to decide the issue “sympathetically”, there was no direction that the issue is to be decided on its merits. A logical inference we can draw is that probably the Hon'ble Supreme Court was not convinced of the merits of the case of the applicant; it was on account of the fact that he had retired from service, that a sympathetic view was suggested. Vide the impugned order, the respondents have relied upon and quoted the provisions of relevant rules while deciding the issue.

8. We reiterate that once the matter has been adjudicated up to the level of the Hon'ble Supreme Court, we cannot and should not re-examine issue.

9. In the light of what has been detailed and discussed above, this OA does not warrant any interference. Therefore, it stands dismissed.

There shall be no orders as to costs.”



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2. It is obvious that the view adopted by the Tribunal in paras 7 and 8 of the impugned order is completely flawed. There was clearly no embargo on the Tribunal adjudicating the dispute raised by the petitioner. In fact, it was the statutory duty of the Tribunal to do so.
3. The order of the Supreme Court did not, in any manner, either restrain the petitioner from re-approaching the Tribunal, or inhibit the Tribunal from deciding the OA when the respondent re-approached it.
4. Accordingly, the impugned order is quashed and set aside. OA 556/2019 stands remanded to the Tribunal for decision afresh.
5. In order to expedite matters, we direct both sides to appear before the Tribunal on 25 March 2025 and request the Tribunal to take up the matter on the said date and not adjourn the case. We also request the Tribunal to decide the matter as expeditiously as possible, preferably within eight weeks from the said date.
6. Needless to say, should any party be aggrieved by the decision of the Tribunal, the remedies in law shall remain open.
7. The writ petition stands disposed of in the aforesaid terms.

**C.HARI SHANKAR, J.**

**AJAY DIGPAUL, J.**

**MARCH 4, 2025/ar**

*[Click here to check corrigendum, if any](#)*