

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4263 OF 2008

(@SPECIAL LEAVE PETITION (CIVIL)NO.13292 OF 2006)

ABBAS ALI KHAN & ORS.

Appellant(s)

VERSUS

UNION OF INDIA

Respondent(s)

O R D E R

Leave granted.

2. About 45 post-graduate students of M.D.(Unani) have filed a writ petition before the High Court of Delhi contending that the stipend being given to them was very much low as compared to the stipend given to the post-graduate students of the modern medicine. It was contended that the post-graduate students of modern medicine were getting Rs.10,050/- plus D.P.,D.A.,C.C.A. and H.R.A. whereas the post-graduate students of Indian system of medicine were being given only Rs.2,800/-. The learned single Judge was pleased to direct that there should be parity in the matter of payment of stipend to the post-graduate students of Indian system of medicine and also the modern system of medicine. Against that the Union of India has filed an LPA before the High Court and the Division Bench of the High Court was pleased to set aside the order of the learned single Judge. Against this, the appellants have come before this Court by way of this appeal.

3. Heard learned senior counsel for the appellants and also learned Addl.Solicitor General.

4. It may be noticed that during the pendency of these proceedings, the Union of India has considered the matter on the basis of certain recommendations and the width of disparity between the stipend payable to the post-graduate students of the Indian system of medicine and the modern system of medicine was reduced and these facts are stated in the counter affidavit filed on behalf of Union of India but it was for a period of five years only and that period has already elapsed in the case of the appellants and it was decided by the Union of India that this increased stipend would be payable to the post-graduate students of the Central Universities and aided medical institutions run by the central government. It was expressed that the central government was not in a position to undertake the financial burden of the stipend to students who are pursuing their post-graduation in the Indian system of medicine whether private or the state governments managed across the country and it was for the concerned authorities to find out that stipend is paid for the post-graduate students of Indian system of medicine.

5. In the instant case, the students who had filed the writ petition are students of the years 1992-1996 and we do not think that any orders should be passed in these proceedings. We make it clear that the authorities may consider their claim if the same is permissible in terms of their rules or instructions and proper directions be passed as regards the students who are presently undergoing the post-graduate courses in the Indian system of

medicine. We find no reason to interfere with the impugned order. Accordingly, the appeal is disposed of. No costs. We leave open the question raised in this appeal to be considered by the appropriate authorities as mentioned above.

.....CJI.
(K.G. BALAKRISHNAN)

.....J.
(P. SATHASIVAM)

.....J.
(J.M. PANCHAL)

NEW DELHI;
7TH JULY, 2008.