

PETITIONER:
DR. V.P. CHATURVEDI AND ORS.

Vs.

RESPONDENT:
UNION OF INDIA AND ORS.

DATE OF JUDGMENT 14/08/1991

BENCH:
MISRA, RANGNATH (CJ)
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MISRA, RANGNATH (CJ)
KANIA, M.H.
KULDIP SINGH (J)

CITATION:
1991 SCR (3) 595 1991 SCC (4) 171
JT 1991 (3) 525 1991 SCALE (2) 325

ACT:

Civil Services: Researchers in medical institutions--Providing security of service to those who have put in long period of research work--Building up of core cadre--Absorption in the cadre on regular basis--Directions issued.

Public Health: Need for continuous research in the treatment of diseases--Participation of established drug manufacturers--Scheme suggested.

HEADNOTE:

In the present petitions filed before this court, the petitioners, Research Scholars connected with Projects entrusted to different institutions, prayed for security of employment and improvement of conditions of service. In the earlier writ petitions this Court indicated that those who have put in 15 years of research work should be immediately regularised and that a core cadre be built up. The Respondents undertook to submit a comprehensive scheme and this court granted two month's time to the Respondents to file the same.

Passing interim orders pending examination of a comprehensive scheme to be submitted by the Respondents, this Court,

HELD: 1. The Indian Council of Medical Research (I.C.M.R.) is actually the organisation set up for research purposes and the Union of India meets the expenditure on research by funding. This Court does not have the adequate technical know how but is of the view that if appropriate coordination is made and the Health Ministry, ICMR and the Institutes where research is carried on tie up their operations, more useful work can be done and simultaneously the researchers would have better terms of employment. All the Institutes where research is carried on may not be at the National Capital. Hence a small monitoring unit requires to be set up which would finalise the various research projects well in advance and receive offers of projects from organisations like World Health Organisation or other bodies.
[598B-D]

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2. No consideration has been given as to why the drug

manufacturers in India who have engaged themselves in a Very lucrative trade should also participate in research programmes. Quality of work in research institutes specialised in their fields is bound to be better than research carried on by the manufacturers themselves. A scheme could be evolved by which established drug manufacturers could be required to participate in such programmes by supporting particular research projects which the monitoring body 'could' allot. Continuing research not only keep up the level of knowledge but also helps the enhancement of efficiency of treatment of diseases and in the matter of providing relief to the patients. [598E-G]

3. Once service guarantees are provided and security of service is available, the flow of inspiration from within perhaps slows down. However, there is no objection to a core cadre being built up and if the Health Ministry is of the view that there should be a core cadre, it can quickly set up the same and such of the researchers who have put in more or less continued period of work could be brought into the cadre at the first instance on regular basis. The Committee which the Union of India has to set up my look into this totter more thoroughly and give shape to the idea. [599A-C]

4. The Patel Chest Institute seem to be more or less a permanent future and researchers therein may be continued against the programmes available. The funding of course has to be ultimately done by the Health Ministry and the manner of funding may be determined by it. The researchers who have worked in the All India Institute of Medical Sciences should be continued upon availability of its programmes but those who have put in longer periods may be absorbed in available vacancies. The stand taken by Committee that researchers may be treated as in-service candidates when regular vacancies occur for absorption, is approved. [599D, E]

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition No. 917 of 1990.
(Under Article 32 of the Constitution of India).

(With I, A. Nos..1-3/90 in Writ Petition (Civil) No: 9/88 and Contempt Petition No. 45/91 in Writ Petition (Civil) NO. 602/90).

S.K. Bhattacharya and R. Venkataramani for the Petitioners.
Altaf Ahmed, Additional Solicitor General, S.K. Mehta, A.
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Mariarputham, Ashok Bhan, Ms. A. Subhashini, R. Ramachandran, S.P. Kalra and Arun Madan for the Respondents.

The following Order of the Court was delivered:

The main application is under Article 32 of the Constitution while the Contempt Petition and the Interlocutory Applications in the connected Writ Petition are for orders and directions. The common aspects in all the three proceedings are that the petitioners before this Court are Research Scholars connected with Projects entrusted to different Institutions. They are before the Court for security of employment and improvement of conditions of service.

In Writ Petition 999 of 1988. along with Writ Petition No. 1043 of 1989 we gave our judgment on March 22, 1990, We then indicated:

"The Institute set up by Statute is intended to carry on research in a continuous way to improve the level of medical knowledge. Under the Act the Institute is an autonomous body though the Chairman thereof is no other than the Union Minister of Health. It is true that

the Institute is entrusted from time to time. with research projects by the World Health Organisation, the Indian Council of Medical Research and other government and semi-government bodies. It is appropriate that a Scheme should be evolved 'by the Institute in coordination with the Health Ministry and the Indian Council of Medical Research so that a team of researchers is built up to meet the general requirements of research. It is quite possible that certain projects would require specialised hands' and on such occasions a special team could be set up on casual basis by drawing the competent hands from different institutions, for a period but to keep up the tempo of research if a team of researchers is built up, it would be convenient for the Institute for purposes of discipline and control as also for efficiency. The Health Ministry must also sponsor continuous research projects in the field of medicine and health and for such purpose several projects should be listed out from time to time and entrusted to the respondents Institute as also a similar Institute at Chandigarh and to institutes as and when set up elsewhere. This would assist in updating relevant medical 'information' and knowledge, apart from building up a scientific tone and temper for general circulation.

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We commend that the Institute initiates serious action in this regard. without delay and we suggest that the Ministry of Health and the Indian Council of Medical Research collaborate with the Institute to work out the same.

Pursuant to our observations the Ministry of Health appears to have taken some action and particulars relating thereto have been placed before us. On that occasion we indicated that those who have put in 15 years of research work should immediately be regularised and a core cadre could be built up. The Health Ministry has no objection to a core cadre of researchers being created. The Indian Council of Medical Research ('ICMR' for short) is actually the organisation set up for the research purposes and as we gather the Union of India in the relevant Ministry meets its expenditure on research by funding. The Court does not have the adequate technical knowhow but we are of the view that if appropriate coordination is made and the Health Ministry, ICMR and the Institutes where research is carried on tie up their operations more useful work can be done and simultaneously the researchers would have better terms of employment. All the Institutes where research is carried on may not be at the national capital. What is necessary is the emergence of a small monitoring unit which would finalise the various research projects well in advance and receive offers of projects from organisations like World Health Organisation or other bodies.

No consideration has been given. as to why the drug manufacturers in India who have engaged themselves in a very lucrative trade should also participate in research programmes. Quality of work in research institutes specialised in their fields is bound to be better than research carried on by the manufacturers themselves. A scheme could be evolved by which established drug manufacturers could be required to participate in such programmes by supporting

particular research projects which the monitoring body Could allot. Continuing research not only keeps up the level of knowledge but also helps the enhancement of efficiency of treatment of diseases and in the matter of providing relief to the patients.

Mr. Venkataramani seriously presses before us that the researchers should have some scheme where within two to three years they could as in other Government service--be made permanent and given guarantees of service. When we gave our final decision in Writ Petition No. 999/1988' we had no intention of creating a permanent cadre of the type Mr. Venkataramani argues about. In fact 'project-

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wise research helps to generate better efficiency than caderised research organisation. Once service guarantees are provided and security of service is available, the flow of inspiration from within perhaps slows down. We had, therefore, thought that those who had put in long period of research work should only be provided security so that in the later part of their service life, they may not be put to inconvenience.

We have no objection to a core cadre being built. up and if the Health Ministry is of the view that there should be a core Cadre, perhaps, it can quickly be set up and such of the researchers who have put in a more or less continued period of work Could be brought into the Cadre at the first instance on regular basis. The Committee which the Union of India has perhaps to set up may look into this matter more thoroughly and give shape to the idea we have conveyed by our judgment.

The Patel Chest Institute seems to' be more or less a permanent feature and researchers therein may be continued.against the programmes available. The funding of course has to be ultimately done by the Health Ministry and the manner of funding may be determined by it. The researchers who have worked in the All India Institute of Medical Sciences should be continued upon availability of its programmes but those was have put in longer periods may be absorbed in available vacancies. We are aware of the stand taken by Committee that researchers may be treated as in service candidates when regular vacancies occur for absorption. This has our approval.

We adjourn these matters by two months to receive a comprehensive response. from the Union Government in the Health Ministry so that we would have the opportunity of examining the comprehensive scheme and then make a final order.

Call on 4.10.1991.

G.N.

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Matters adjourned.