

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4001 of 2015

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1. Sanjay Ram, son of Sri Mathura Ram, resident of village- Jiyan Bigha, P.S. and District- Shekhpura, at present posted as Dispenser in the office of District Tuberculosis Centre, Hazipur, Vaishali.
 2. Munna Kumar Chaudhary @ Munnu Kumar Chaudhary, son of late Somar Chaudhary, resident of village- Hanumangarh Kharjama, P.S. Chandi, District- Nalanda, at present posted as Dispenser in the office of District Tuberculosis Centre, Motihari.
 3. Rajesh Kumar, son of Sri Saryug Tanti, resident of village and P.S. Kalyanpur, District- Munger, at present posted as Dispenser in the office of District Tuberculosis Centre, Jamui.
 4. Ajay Kumar Singh, son of late Ganesh Singh, resident of village- Samhakti, P.S. Dinara, District- Rohtas, at present posted as Dispenser in the office of District Tuberculosis Centre, Muzaffarpur.
 5. Indu Kumari, wife of Kamal Kishore Kunal, resident of Mohalla- Ward No-10, Chondhi, Behind Middle School, Flat No-7, P.S. Barh, District- Patna, at present posted as Dispenser in the office of District Tuberculosis Centre, Barh, under Patna District.
 6. Arjun Prasad, son of Sri Muneshwar Prasad, resident of village-Belwapur, P.S. Tharthari, District- Nalanda, at present posted as Dispenser in the office of District Tuberculosis Centre, Nalanda.
 7. Jitendra Kumar, son of Sri Satya Narayan Prasad, resident of village- Dhiraundh, P.S. Sirdala, District-Nawada, at present posted as Dispenser in the office of District Tuberculosis Centre, Jehanabad.
 8. Navin Kishore Singh, son of late Sita Ram Singh, resident of village- Amra, tola-Faruqaganj, P.O. Aurangabad (Saraiya), P.S. Amjhor, District- Rohtas, at present posted as Dispenser in the office of District Tuberculosis Centre, Rohtas.
 9. Baijnath Prasad, son of Sri Diplal Sao, resident of village- Sampatchak, P.S. Gaurichak, District- Patna, at present posted as Dispenser in the office of District Tuberculosis Centre, Bhabhua, Kaimur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Finance Department, Bihar, Patna.
3. The Principal Secretary, General Administration Department, Bihar, Patna.
4. The Principal Secretary, Health and Family Welfare Department, Government of Bihar, Old Secretariat, Patna.
5. The Director-in-Chief, Health Services, Bihar, Patna.
6. The Deputy Director, Health Services (Tuberculosis), Agam Kuan, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Mukund

For the Respondent/s : Mr. Rajiv Kumar, AC to GA 5

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

CAV JUDGMENT

Date: 7-07-2015



The nine petitioners in this writ application are holding the post of Dispensers at various places of District Tuberculosis Centres. They are aggrieved because the Principal Secretary, Finance, Government of Bihar has passed an order in terms of the previous direction issued in CWJC No.18004 of 2011 rejecting the plea of the petitioners to grant them pay scale of Rs.4000- 6000 instead of Rs.3050- 4590. In other words, this is the second visit of the petitioners seeking some kind of relief, which has been denied by a speaking, well considered, decision of the Principal Secretary, Finance.

2. There are not many areas of dispute on facts. Petitioners were selected and appointed to work as Dispensers. They got the pay scale which was prevalent at the relevant time but down the line it is the case of the petitioners that their pay scale became lower than the similarly situated employees in the Tuberculosis Department. They started looking for parity by demanding pay scale of Rs.4000- 6000 instead of Rs.3050-4590. They moved the Director- in- Chief, Health Services, who did not respond. Therefore, the previous writ application was filed, which was disposed of with a direction to consider and pass an order.

3. A serious effort has been made by the learned counsel representing the petitioners especially on the basis of the pleadings



made in paragraph 10 of the writ application as to when and how the discrepancy arose to the detriment of the petitioners. The previous Bench hearing the previous writ application disposed of the writ application for consideration by the Director- in- Chief, Health Services where the matter remained pending despite hearing and opportunity given to the petitioners. When nothing came out of it, a contempt application bearing MJC No.211 of 2014 was moved. The Director-in- Chief, Health Services took a plea that such decisions are required to be taken by the Finance Department. This is how the impugned order contained in Annexure- 6 came into existence.

4. The stand of the State is in support of the speaking order passed by the Principal Secretary, Finance. Even without the counter affidavit, in the opinion of the Court, the order of the Principal Secretary dated 30.6.2014 paints a complete picture on the dispute. The relevant discussions governing the claim of the petitioners primarily start from paragraph 4 of the said decision. The order step by step has given the pay scale, which was available to Dispensers right from 1.4.1981 till the last pay revision effected on 1.1.2006. Reading of the said order indicates that it is not that these petitioners were deliberately given a different or lower pay scale vis-à-vis so-called similarly situated other employees. The various pay revision committee including the fitment committee and the fitment



appellate committee had dealt with matters at their level. These are specialized bodies which are empowered to recommend as to the kind of pay scale which is required to be made over to various holders of posts. There was a conscious decision and recommendation made with regard to the post which these petitioners are holding and their plea of equality or discrimination vis- a- vis BCG Technician, Pharmacists or Compounders are self perceived kind of discrimination. Neither the petitioners nor a court of law can use its wisdom to issue direction and substitute the pay scales which a government servant has been given by a Pay Commission or Fitment Committees.

5. The recommendations made by the committees which formed the basis for recommendation of the 5th Pay Revision Committee led to notification of the pay scale available to these petitioners keeping many many factors in mind. They cannot, therefore, equate themselves with some other post holders, who were recommended a different pay scale looking at the qualification, method of recruitment and the responsibility which went with such posts.

6. The Court must record its appreciation for a fair and square order which has been passed by the Principal Secretary, Finance with absolute clarity on the status of these petitioners.

7. For the reasons emerging from the speaking order of the Principal Secretary contained in Annexure- 6, dated 30.6.2014, this order in no manner requires interference nor can this Court order payment of a different pay scale over and above the recommendations made by the Pay Revision Committee and the fitment committee as well as fitment appellate committee.

The impugned order, therefore, does not suffer from any vice of arbitrariness nor the case of discrimination is made out in favour of the petitioners. Writ application, therefore, is dismissed.

(Ajay Kumar Tripathi, J)

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