

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

(1) COCP No. 1856 of 2015 (O&M)
Date of decision: October 17, 2016

Kiran Kumar and others

...Petitioners

Versus

Vinni Mahajan and another

...Respondents

(2) COCP No. 1879 of 2015 (O&M)

Balwant Singh and others

...Petitioners

Versus

Vinni Mahajan and another

...Respondents

(3) COCP No. 2091 of 2015 (O&M)

Narinder Kumar and others

...Petitioners

Versus

Vinni Mahajan and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. PK Goklaney, Advocate
for the petitioners.

Mr. Anant Kataria, DAG, Punjab.

RAKESH KUMAR JAIN, J.

This order shall dispose of three contempt petitions as they arise from the similar set of facts. However, for the sake of convenience, facts are being extracted from COCP No. 1856 of 2015. This petition is filed for the alleged non-compliance of the order dated 27th August, 2014

passed by this Court in CWP No. 18924 of 2012.

The writ petition No. 18924 of 2012 was decided in terms of CWP No. 1842 of 2015 being the lead case which was disposed of along with other similar cases. It was observed by the Court that the petitioners' case is squarely covered by the judgment delivered in Dr. Naresh Kumar Kataria and others Vs. State of Punjab and others CWP No. 23138 of 2010 decided on 5.1.2012. It was also observed that in the case of Dr. Naresh Kumar Kataria (supra), this Court had granted the benefit of notional fixation to the petitioners with liberty to the petitioners to represent regarding grant of actual benefits. The writ petition was disposed of in the same terms, but with further liberty to the petitioners to make representation regarding remaining arrears of pay and also parity in grade pay. It was further observed that in case the respondents conclude that the petitioners are entitled to grant of arrears of pay etc. the same shall be restricted to 38 months prior to the filing of the writ petition.

After notice, the respondents filed their reply along with order dated 5th October, 2015 (Annexure R/1) by which the representation made by the petitioners, pursuant to the orders passed by this Court, was rejected. Operative part of the order dated 5th October, 2015 reads as under:-

“Therefore, as per position explained above, it is clear that the nature and sphere of duties, responsibilities and educational qualifications of the petitioners are altogether different from the Staff Nurses/Nursing Sisters. There is no parity of duties or pay scales with Staff Nurse not to talk of Nursing sister which is a promotional post of Staff Nurse after an experience of five

years as Staff Nurse. Hence they cannot be entitled to claim parity in the matter of pay scales with that of Nursing Sister of the Department of Health & Family Welfare.

Further the Pharmacists were given pay scale of Rs. 5910-20200 with grade pay of Rs. 3000. The pay scales of Pharmacist has been revised to Rs. 10300-34800 with grade pay of Rs. 4200 w.e.f. 1.12.2011. In this way pharmacists have been given adequate hike in their pay scale as well as grade pay. It may be mentioned that there are number of other posts whose scales/grade pay were enhanced w.e.f. 1.12.2011 but they were given such enhancement of pay/Grade pay prospectively only. So there is no merit in the claim of the petitioners for arrears of pay/Grade Pay. After 1.12.2011, the pay of the petitioners was fixed in the new pay scale with enhanced grade pay and there is no justification at all for further increase in the grade pay of the Pharmacists.

In view of the above facts, I find no merit and force in the representation of the petitioners and hereby reject the same.”

Learned counsel for the petitioners has argued that while rejecting the representation, grant of benefit of notional fixation has not been dealt with in the right perspective.

I have heard learned counsel for the parties and after perusal of the record, am of the considered opinion that after the decision taken by the respondents on 5th October, 2015, on the detailed representation made by the

petitioners, the only remedy available to the petitioners is to challenge the said order because in so far as the order of this Court is concerned the same has been complied with but the petitioners would be at liberty to raise the issue of grant of benefit of notional fixation from the due date.

Thus, with these observations, the present petitions are disposed of and the rule is hereby discharged.

October 17, 2016
prem

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No