

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 10763 of 2013

Date of decision : 01.02.2016

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Dr. Govind Gupta and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Y.P Malik, Advocate for the petitioners.

Mr. Parvinder Chauhan, Addl. A.G., Haryana.

Mr. Tribhuwan Dahiya, Adovcate for respondent no.2.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

The petitioners are seeking a writ of certiorari for quashing the office order dated 8.3.2013 (Annexure P-7) and directions to the respondents to grant special allowance as has been granted to the Doctors of B.P.S Govt. Medical College for women.

The petitioners are serving as Ayurveda Medical Officers with the MSM Institute of Ayurveda, BPS Mahila Vishwavidyalaya, Khanpur Kalan, District Sonapat.

Vide order dated 17.2.2011 (Annexure P-1), the

respondent-State accorded sanction for grant of special allowances to the Doctors/Faculty Members of BPS Govt. Medical College for Women. The petitioners made representation on 9.3.2012 (Annexure P-2) claiming special allowance on parity basis as they are similarly situated doctors.

Vice Chancellor of the respondent-University prepared an Agenda item for Executive Council of the respondent-University dated 28.4.2012 (Annexure P-4) stating therein to the effect that the nature of duties of the B.P.S Medical College for Women and MSM Institute of Ayurveda, Khanpur Kalan (Sonapat) are identical and similar to each other and the respondent-University is generating a considerable resource in shape of fees. The petitioner thereafter filed CWP No. 22981 of 2012 which was disposed of by this Court on 14.12.2012 (Annexure P-5) by giving direction to the respondents to consider the claim of the petitioner within three months from the date of the receipt of a certified copy of the order. The claim was rejected finally on 8.3.2013 ((Annexure P-7). Hence the present writ petition.

On notice, written statement was filed by respondents no. 1 and 3 in which a stand was taken that BPS Govt. Medical College for Women is not a part of Bhagat Phool Singh Mahila Vishwavidyalaya Khanpur Kalan, Sonapat. It is a Government College under the control of Government of Haryana and affiliated with Pandit B.D Sharma Health University, Rohtak. The petitioners are the employees of MSM Institute of Ayurveda, a constituent Institute of Bhagat Phool Singh Mahila Vishwavidyalaya Khanpur

Kalan, Sonapat. As both are different institutes and are not concerned with each other either through administrative or academic control, therefore, question of parity does not arise and there is no question of discrimination with Bhagat Phool Singh Mahila Vishwavidyalaya Khanpur Kalan, Sonapat. The special allowance was given to the Doctors of BPS Govt. Medical College to retain good talent of Doctors in the Medical College which has been recently started.

In a separate written statement filed by respondent no.2, it has been explained that respondent no.2-University is a State University created by the BPS Mahila Vishwavidyalaya Khanpur Kalan Act, 2006. The Government of Haryana is its primary funding Agency under the 2006 Act. The University is not entitled to incur any financial liability without prior sanction of the Government. Therefore, the University is not empowered to revise the pay scale or grant any special allowance etc. without obtaining the prior approval of the Government. In paragraph 4 it has further been explained that BPS Government Medical College for Women, Khanpur Kalan, Sonapat has a separate campus though adjacent to that of the respondent-University. The respondent-University has neither any administrative nor academic control over this College. The Government of Haryana appoints staff and faculty of the Medical College which offers MBBS Degree course to its students. The University vide its Executive Council resolution dated 27.11.2012 decided to grant special allowance to the teaching faculty of the

University subject to approval of the Government. However, the Government declined the same vide letter dated 18.2.2013(Annexure P-8). Therefore the petitioners are not entitled to claim the benefit of special allowance granted by the State Government to the faculty of BPS Government Medical College of Women.

I have heard the counsel for the parties at length and perused the records of the case. The case of the petitioners has been examined while passing the order (Annexure P-7). Special allowances had been granted to the Faculty Members of BPS Govt. Medical College for Women, Khanpur Kalan, Sonapat as per letter dated 17.2.2011 issued by the Finance Commissioner and Principal Secretary to Govt. of Haryana, Health and Medical Education Department, Harayna. BPS Govt. Medical College for Women is not a part of the Bhagat Phool Singh Mahila Vishwavidyalaya Khanpur Kalan, Sonapat. It is a Govt. College under the control of Govt of Haryana and affiliated with Pt. B.D Sharma Health University, Rohtak, whereas the petitioners are the employees of MSM Institute of Ayurveda a constituent institute of Bhagat Phool Singh Mahila Vishwavidyalaya Khanpur Kalan, Sonapat. The special allowances granted by the order dated 17.2.2011 cannot be extended to the petitioners as there is no parity between the two Institutes. The stand of the State is further clear from the written statement filed on behalf of respondent no.2, wherein it has been stated that respondent no.2 is a State University created by the BPS Mahila Vishwavidyalaya Khanpur Kalan Act, 2006 and the University is not

entitled to incur any financial liability without prior sanction of the Government. The University vide its Executive Council resolution dated 27.11.2012 decided to grant 'special allowance' to the Teaching Faculty of the University subject to approval of the Government. The matter was sent to Government for approval which was declined vide letter dated 18.2.2013 (Annexure P-8).

In view of all that has been discussed above, the petitioners cannot claim parity with the Doctors employed in the BPS Medical College for Women. Writ petition is hereby dismissed.

01.02.2016
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(**RITU BAHRI**)
JUDGE