

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5799 of 2015 (O&M)

Date of Decision: 28.04.2016

Dr. Harpreet Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Arun Gosain, Advocate,
for the petitioner.

Mr. Inqulab Nagpal, AAG, Punjab.

Ms. Jasleen Kaur, Advocate,
for respondent No.3.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

CM No.4694 of 2016

The application is allowed and rejoinder is taken on record.

Main Case

The petitioner is a Medical Officer (Dental) working on contractual basis on fixed salary through the outsourcing policy adopted by the Punjab Health Systems Corporation. There is a contractor in between. There is thus no direct relationship of employer and employee between the petitioner and the Corporation except minimal control and supervision so that the work required to be done is performed according to norms. The petitioner claims that she should be given the minimum pay scales of the post of Medical Officer (Dental) of the pay scales admissible to regular

Medical Officers (Dental). The written contract envisages payment to contractual Medical Officers (Dental) through user charges depending on the number of patients visiting the Dispensary or the Hospital where she is deputed to work. The Full Bench ruling in CWP No.14796 of 2003 titled *Avtar Singh v. State of Punjab and others* decided on November 11, 2011 relied upon by her counsel neither involves nor deals with cases of contractual employment through the outsourcing system where there is an intermediary. Neither can the petitioner claim “equal pay, equal work” without foundations of the claim laid down in the petition of the duties and responsibilities performed by the petitioner as against those who work on regular basis. It is not possible for the Writ Court to alter the status of the petitioner from contractual to regular and then set about considering the plea for grant of minimum of the pay scales of the post of Medical Officer (Dental) which cadre post s governed by rules and prescribed pay scales.

No ground is made out to interfere.

Dismissed.

28.04.2016
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(RAJIV NARAIN RAINA)
JUDGE