

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

CWP No.5985 of 2016

Date of Decision:20.12.2016

Dr. Ujita Ballyan

... Petitioner

Vs.

Union of India and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Padam Kant Dwivedi, Advocate for the petitioner.

Mr. Sunil Kumar Sharma, Advocate for UOI.

Mr. Ram Niwas Sharma, Advocate for respondents No.2 to 4.

P.B. BAJANTHRI J. (ORAL)

In the instant petition, the petitioner has assailed the orders dated 4.6.2015 and 29.10.2015 (Annexure P-10).

The respondents advertised for filling up the post of Consultant (Civil Society Mainstream) on a consolidated salary ranging from Rs.23,000/- to Rs.35,000/-. Pursuant to the advertisement, the petitioner was selected and appointed at a consolidated salary of Rs.32,000/- per month. Thereafter, from time to time her appointment was renewed with certain monetary benefits. In the year 2015, the petitioner appointment was renewed so also salary has been enhanced to Rs.34,500/-. The Government of India issued an office order relating to Human Resources sanctioned strength for SACS under NACP IV. Further the post of Consultant (Civil Society Mainstream) was equated to that of Assistant Director.

In view of the office order, guidelines and equating certain cadre to a particular pay, the respondents have noticed that they are paying

higher pay to the petitioner with reference to the post held by the petitioner. The post of Consultant (Civil Society Mainstream) was re-designated as Assistant Director (Civil Society Mainstream).

Having regard to the status of the petitioner's post that Consultant (Civil Society Mainstream) has been equated to that of Assistant Director, automatically pay of the petitioner was revised from Rs.32,000/- to Rs.23,000/-. Thus, the respondents have issued the communication. The petitioner aggrieved by the same has filed writ petition i.e. CWP No.15556 of 2015 which was disposed of while directing the respondents to pass a speaking order. Thus, the respondents have passed a speaking order on 29.10.2015 which is under challenge in the present petition.

Learned counsel for the petitioner submitted that through out the petitioner has been paid a sum of Rs.32,000/- plus and it has been enhanced from time to time as and when contract appointment was renewed. Therefore, action of the respondents in revising the pay from Rs.32,000/- to Rs.23,000/- is highly arbitrary. Therefore the order dated 29.10.2015 is liable to be set aside being arbitrary and illegal.

On the other hand, learned counsel for the respondents submitted that respondents have noticed that wrongly the petitioner has been paid a sum of Rs.32,000/- plus when the post of Consultant (Civil Society Mainstream) is equivalent to Assistant Director and admittedly the pay of the Assistant Director is Rs.23,000/-. Thus, wrong fixation of pay to the post of Consultant (Civil Society Mainstream) has been rectified after due notice to the petitioner. Moreover appointment is on contract for a specified period and no right is created in favour of the petitioner.

Therefore, the petitioner has not made out a case so as to interfere with

impugned order dated 29.10.2015.

Heard learned counsel for the parties.

Short question for consideration is whether the pay attached to the post of Consultant (Civil Society Mainstream) is equivalent to Assistant Director (Civil Society Mainstream) or not?

The respondents have wrongly granted pay of Rs.32,000/- when the petitioner was appointed in the year 2011. The error was noticed by the respondents in the year 2015. Accordingly, they proceeded to rectify the mistake insofar as extending pay attached to the post of Consultant (Civil Society Mainstream) since it is equated to the post of Assistant Director (Civil Society Mainstream) and pay of the Assistant Director (Civil Society Mainstream) is Rs.23,000/-. The petitioner has not pointed out any statutory provision or Rule or Executive order showing that pay attached to the post of Consultant (Civil Society Mainstream) is Rs.32,000/- so as to claim Rs.32000/- plus. That apart appointment of the petitioner is only on contract for a specified period. Hence, no vested right is created in the petitioner so as to seek consolidated pay of Rs.32,000/- plus. Hence, no interference is called for.

Petition stands dismissed.

20.12.2016
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No