

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA no. 2060 of 2014 (O&M)

Date of Decision :25.04.2016

Haryana Ophthalmic Assistant Association

....Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MRS JUSTICE LISA GILL

Present : Mr. R.K.Malik, Sr. Advocate with
Mr. Bhupinder Singh, Advocate for the appellants
Mr. Sudeep Mahajan, Addl. AG, Haryana

MAHESH GROVER, J.

The appellants are in appeal against the judgment of the learned Single Judge dated 29.10.2014. The appellants who are working as Ophthalmic Assistants through their association have been agitating that they be given similar pay scales as admissible to Optometrists.

Before the writ Court they relied extensively on the recommendations made by Director General Health Services Haryana who had stated that *“pay scale, educational qualifications and nature of work for the post of Ophthalmic Assistants working under Health Department Haryana and Optometrists-cum-Orthoptists working in the Medical College, Rohtak are same”* and therefore their pay should also be at par. Prior to the filing of the writ

also filed another writ petition by relying on the very same material to seek a decision from the State Govt. It was their specific case raised in CWP no. 6445 of 1991 that the recommendations of the Director General Health Services as extracted above were required to be placed before a high powered committee for consideration which was not being done. It is subsequent to these proceedings that a decision dated 28.5.2014 was taken declining the prayer of the appellants which was eventually the subject matter of challenge in CWP no . 22026 of 2014 resulting in the impugned order which is now a cause of grievance to the appellants.

It has been contended by the learned counsel for the appellants repeatedly with reference to the letter of the Director General Health Services, Haryana as also a communication addressed by the Assistant Director General, Ministry of Health and Family Welfare that the educational qualifications and nature of work of the post of Ophthalmic Assistants working under the Health Department of Haryana and Orthoptists-cum-Optometrists working in Medical College Rohtak are same and should also be thus equated in the matter of pay. A perusal of the order dated 28.5.2014 passed by the high powered committee reveals that they had considered the prayer and found that the post of Orthoptists – Optometrists in PGI Rohtak have different qualifications, job profile, rules, conditions of service and besides they being employees of the PGIMS Rohtak had to perform more demanding duties than their counter parts in terms of quality

and quantity.

Learned Single Judge while evaluating the contentions of the appellants had observed that parity of posts especially work in different departments cannot be gone into in the writ jurisdiction as there are inherent difficulties in comparing and evaluating the work of different persons in different organisations and thus left it to the expert body.

We have repeatedly put this question to the learned counsel for the appellants to show substantive material which would define the nature of duties being performed by both sets of employees. We find that neither before the writ Court nor before this Court any such material has been produced which could have persuaded us to form a prima facie opinion regarding the nature of duties performed by both sets of employees. We are thus absolutely unable to appreciate the grievance of the appellants and as a logical corollary unable to interfere with the judgment of the learned Single Judge who had observed likewise. We, therefore, dismiss the appeal, leaving the appellants with a liberty to approach the respondents once again, if they are so advised, to substantiate their grievance with reference to the nature of duties being performed by the employees with whom they seek parity.

(Mahesh Grover)
Judge

25.04.2016

(Lisa Gill)
Judge