

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

Civil Writ Petition No.15946 of 2017
Date of Decision: July 24, 2017

Director, Postgraduate Institute of Medical Education & Research,
Chandigarh & another

...Petitioners

Versus

Nursing Teachers Association (Regd.), National Institute of Nursing
Education, PGIMER, Sector-12, Chandigarh & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL, JUDGE
HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE**

Present: Mr.Rajesh Garg, Senior Advocate with
Ms.Nimrata Shergill, Advocate,
for the petitioners.

AMIT RAWAL, J.

Postgraduate Institute of Medical Education & Search,
Chandigarh (for short "PGIMER") has challenged the order dated 4.8.2015
(Annexure P-3) rendered by the Central Administrative Tribunal,
Chandigarh Bench (for short "CAT") in O.A.No.060/00842/2014 filed
under Section 19 of the Administrative Tribunals Act, 1985, wherein the
applicants (private respondents herein), i.e., Nursing Teachers Association,
Dr.(Mrs.) Sushma Kumari Saini, General Secretary and Meenakshi
Agnihotri (Clinical Instructor) had sought implementation of the decision
dated 17.1.2011 of the competent authority, i.e., the Governing Body to
again restore the designation of Sister Tutor in NINE, PGIMER, Chandigarh
by undoing the re-designation earlier done from Sister Tutor to Clinical
Instructor on the ground that it was discriminatory and against the

provisions of Articles 14 and 16 of the Constitution of India.

Mr.Rajesh Garg, learned Senior Counsel assisted by Ms.Nirmata Shergill, Advocate, representing the petitioners submitted that the issue regarding re-designation of the post of Clinical Instructor to that of the Sister Tutor in the College of Nursing at PGIMER, was placed before the Governing Body, and Institute Body in its decision dated 17.1.2011 approved the agenda in principle, subject to examination of the full facts of the case in the Ministry of Health & Family Welfare. The case was sent to Ministry of Health & Family Welfare, New Delhi for according approval for the purpose of re-designation of the post of Clinical Instructor to that of Sister Tutor and revision of pay scale from PB-2 Rs.9300-34800 Grade Pay of Rs.4800/- to PB-3 Rs.15600-39100 with Grade Pay of Rs.5400/- w.e.f. 1.1.2006, so as to bring them at par with their counter parts working in AIIMS, New Delhi. It was pointed out respondent No.4 vide letter dated 29.12.2011 requested the petitioners to take up the issue of cadre review of the entire Nursing Cadre instead of re-designation and up-gradation in piecemeal and the PGIMER reiterated its earlier decision.

He further submitted that respondent No.1 in pursuance to the aforementioned decision dated 17.1.2011 (Annexure A-16) submitted representation dated 27.1.2012 (Annexure A-17) to the Director, PGIMER, Chandigarh pointing out that re-designation of the post of Clinical Instructors to Sister Tutor at National Institute of Nursing Education has been approved by Apex Body of the Institute and thereafter the re-designation of Sister Tutor as Clinical Instructor. A request was made for implementation of the decision of re-designation of the post of Clinical Instructor to Sister Tutor as there has been no change in job responsibilities.

They also gave example of the persons discharging the same duties in AIIMS, New Delhi, i.e., post of Sister Tutor having the Pay Band III of Rs.9300-34800 with Grade Pay of Rs.5400/- and Clinical Instructor is the feeder cadre to Sister Tutor, thus, pointing out anomaly in the pay scale.

According to the learned counsel, the CAT, vide order dated 4.8.2015 (Annexure P-3), directed the competent authority, i.e., the respondents in the Original Application to consider the claim of the applicants for re-designation of the post and granting of higher pay scale or restructuring of the cadre as sought within a period of six months from the date of receipt of certified copy of the order. The aforementioned period was extended by six months by the Tribunal on 08.02.2016. However, as the order of CAT was not fully complied with, a Contempt Petition bearing No.060/00096/2016 was preferred and in the said proceedings, following was passed on 20.10.2016:-

“Present: Sh.Rohit Seth, counsel for the applicant.

Sh.Sanjay Goyal, counsel for the respondents.

1. Counsel for the respondents has stated that by passing orders dated 12.08.2016 and 17.10.2016, order of the Tribunal has been complied with. Copies of the said orders given today in court by counsel for the respondents are taken on record subject to all just exceptions.

2. Perusal of order dated 12.08.2016 reveals that one part of order of the Tribunal has since been complied with. Perusal of order dated 17.10.2016 reveals that the matter of considering restructuring of the cadre as per order of the Tribunal has been approved by Standing Academic Committee of PGIMER and the matter has been referred to the Ministry of Health and Family Welfare. The final order or action regarding restructuring of the cadre is yet to be taken.

3. Counsel for the respondents prays for and is granted

further four months time to do the needful. Compliance affidavit may be filed within one week thereafter.

4. *List on 02.03.2017.”*

It was next urged that vide orders, Annexures P-5 and P-6, the Ministry has informed that the matter has been examined and the proposal of re-designation/up-gradation of Clinical Instructor to that of Sister Tutor has already been rejected by the Ministry of Finance vide letter dated 28.7.2016 and the same could not be reviewed in the absence of new grounds. However, it was further conveyed that vis-a-vis the restructuring of the cadre, the petitioners might consider the matter by placing the same before the 3rd Cadre Review Committee for consideration. The petitioners had duly complied with the directions of the CAT and, therefore, the contempt petition filed before the CAT was not maintainable and in this backdrop of the matter, the present writ petition has been filed challenging the order dated 4.8.2015. Even the applicants (respondents herein), vide letter dated 18.2.2017, were also conveyed the aforementioned fact, much less brought to the notice of the CAT. Learned counsel argued that once the matter has already been placed before the 3rd Cadre Review Committee for consideration for restructuring of the cadre, the contempt petition is not maintainable and, therefore, liable to be kept in abeyance.

We have heard the learned counsel for the petitioners and appraised the paper book.

On a query put to Mr.Garg, learned Senior Counsel to give an explanation for not having executed the order dated 4.8.2015 with promptitude, the answer was that during the interregnum, the petitioners were granted extension of six months and the decision had been rendered and conveyed to the respondents, but still they are not satisfied. Be that as it

may, the petitioners are well within their right to take up the defence and all the points raised in the writ petition in the pending contempt petition at the time of adjudication of the said petition, but not in the manner and mode as indicated above by filing the present petition. The apprehension of the petitioners of filing of the present petition is wholly misconceived and devoid of merit.

In view of the above, no ground for interference is made out.
Writ petition is accordingly dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

**July 24, 2017
ramesh**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No