

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.10854 of 2002

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking the following relief:

“to issue a writ order or direction more particularly one in the nature of Writ of Mandamus under Article 226 of the Constitution of India declaring the inaction of the respondents in paying the petitioner in the grade of Store Keeper/L D C even though the cadre of the petitioner is equivalent and consequently to direct the respondents to pay the salary of the petitioner in the grade of Store Keeper/L D C as the work nature and duties are one and the same along with attached monetary benefits and future grades from the date of petitioner's promotion as Harbarium Keeper w.e.f 1.7.1996 keeping in view of Doctrine of EQUAL PAY FOR EQUAL WORK.”

2. Heard Sri Sukesh Mishra, learned counsel for the petitioner and learned Assistant Government Pleader for Higher Education appearing for respondents 1 and 2.

3. It has been contended by the petitioner that he was appointed as Attender in the 3rd respondent College in the year 1978 and the said post admitted into grant-in-aid on 19.03.1982. Later, he was promoted as Record Assistant and subsequently, promoted as Herbarium Keeper and posted in Botony lab. It is also contended that the staff, who are working in the cadre of Junior Assistant in other labs i.e., Physics and Chemistry lab, are designated as Store Keepers and they are paid Junior Assistant Scale, whereas the staff working in the Botony lab, are designated as Harbarium Keeper. Though the qualification, nature of work and duties are one and the same as per the lab requirement in all

the labs, the pay scales and attached benefits are differed with each other. It is contended that the petitioner is eligible for adhoc promotion grade since he was promoted as Record Assistant in the year 1982. As per G.O.Ms.No.184, dated 22.07.1987, in respect of employees, who completed 10 or 15 years of service in a scale without getting promotion to higher post, is eligible for adhoc promotion. As per the said G.O., petitioner deserves to get the grade of Junior Assistant/Store Keeper, as he is eligible in the year 1997 when he completed 15 years of service as Record Assistant. But, meanwhile, the respondents have promoted him as Harbarium Keeper in the year 1996. Therefore, the petitioner is deprived to get the grade of store keeper in the scale of Rs.910-1625 as per the said G.O. Instead of that, the Department had fixed the petitioner in the pay scale of Rs.860-1470, which is illegal. Neither the Department has fixed the correct scale nor fixed the scale at the time of granting promotion to the petitioner as Harbarium Keeper in the year 1996 itself. Due to the said acts of the respondents, the future benefits including pensionary benefits payable to the petitioner would be affected.

4. Having considered the submissions made by the parties, I am of the view that the posts of Store Keeper/Junior Assistant/L.D.C are not approved by the Department. Unless and until the said posts are approved by the department, no direction can be given to the respondents to pay the salary in the promoted post. Therefore, the Writ Petition is devoid of merit and is liable to be dismissed.

5. Accordingly, the Writ Petition is dismissed. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

JULY 25, 2018

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Date:25.07.2018

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