

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

**CWP-19620-2014 (O&M)
Date of decision : 13.11.2018**

Harmandeep Kaur and others

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Param Preet Singh Brar, Advocate,
for the petitioner.

Ms. Bhawna Gupta, DAG, Punjab.

JITENDRA CHAUHAN, J.

The petitioners seek quashing of order dated 25.10.2013 (Annexure P-7), passed by respondent No.3, whereby, the salary of the petitioners has been reduced to ₹12,000/- per month, in contravention of the terms and conditions of the appointment letters.

The grouse of the petitioners is that they were appointed as Staff Nurse and Counsellor during the years 2012 and 2013 on contract basis, in pursuance of the advertisements published in the newspapers under the National Programme for Prevention and Control of Cancer, Diabetes, Cardiovascular disease & Stroke (NPCDCS), on consolidated remuneration of ₹18,000/- for Staff Nurse and ₹15,000/- for Counsellor). However, vide impugned order Annexure P-7, the respondent No.3 has issued direction to respondent Nos.4 and 5 to pay salary at ₹12,000/- per month to Staff Nurse as well as Counsellor, without assigning any reason.

On the other hand, learned State counsel submits that the NPCDS programme is being run with the help of 75% grant sanctioned by the Government of India and the remaining 25% grant comes from the State Government. The performance of the programme was reviewed and the same was found to be inadequate. Therefore, to motivate the Staff Nurses and Counselors to perform better, the pay of Staff Nurse and Counsellor was settled at ₹12,000/- as fixed monthly remuneration with ₹6,000/- and ₹3,000/- as variable to be paid as a performance based incentive. Learned counsel further refers to (Annexures P-5 and P-6), the appointment letters issued to petitioners to contend that the terms and conditions including salary for this contractual assignment were liable to change as per the guidelines/directions issued by the authorities from time to time.

Heard.

It is not in dispute that the petitioners were appointed on contract basis as Staff Nurse and Counsellor with fixed monthly remuneration of ₹18,000/- and ₹15,000/-, respectively. The re-fixation of remuneration from fixed to variable one has been done solitary on the ground of inadequate performance of NPCDS Programme. However, there is no record to substantiate that the performance of the programme has been adversely affected on account of the inefficiency etc. of the petitioners alone. Moreover, the remuneration of Staff Nurse and Counsellor have alone been decreased, whereas, the rest of the staff members are getting the salary as earlier. Therefore, the action of the respondents is arbitrary and discriminatory.

It has further emerged that this arrangement of including variable component in the remuneration of the petitioners has been done with a view to motivate them to perform better. The stand of the respondents appears to be highly misconceived inasmuch as any decrease in the remuneration already being granted to the petitioners, by no stretch of imagination, can be said to be a motivating factor, rather the same would demotivate and demoralise the petitioners.

In view of the above discussion, this Court feels that order (Annexure P-7) is unjust and deserves to be set aside. Ordered accordingly. The arrears, if any, be paid to the petitioners within a period of six weeks from the date of receipt of a certified copy of this judgment.

Allowed in the above terms.

13.11.2018

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**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No