

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 24064 of 2015 (O&M)

Date of decision: 16.02.2018

Harjinder Singh and Others

...Petitioners

Vs.

Union of India and Others

...Respondents

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

Present: Mr. R.D. Bawa, Advocate for the petitioners.

Mr. Vivek Chauhan, Senior Counsel for UOI-respondents.

P.B. BAJANTHRI, J.(ORAL)

In the instant writ petition, the petitioners have challenged the validity of the order dated 18.08.2015 (Annexure P-11).

2. Their grievance is that they were nursing personnel in the respondent-department. Ministry of Health and Family Welfare(Nursing Section) issued official Memorandum on 17/19.11.2008 while enhancing the nursing allowances, Uniform Allowance and Washing Allowance from the existing rate of ₹1600/- to 3200/-, 250/- to 500/- and 150/- to 300/- while apprising the reasons for enhancement in the very same Office Memorandum. It is stated that “Nursing Allowances” will be payable to all nurses working within clinics, dispensaries and hospitals. Pursuant to this official Memorandum petitioners approached the concerned authorities for extending benefit of allowances at the revised rates. The grievance of the petitioners was declined on 18.08.2015.Hence the present petition.

3. Learned counsel for the petitioners submits that official Memorandum

dated 17/19.11.2008 do not distinguish among the nurses for the purpose of extending revise rates. Therefore, the decision of the respondent-department dated 18.08.2015 is liable to be set aside. It is further submitted that during the pendency of this petition of 19.12.2016, the Ministry of Defence by its communication dated 19.12.2016 in respect of enhancement of the civilian nursing staff working in clinics, dispensaries at par with the nursing staff working with hospitals has been further enhanced from ₹ 3200 to ₹ 4800 w.e.f 04.08.2016 on account of increase in DA by 100%.

4. On the other hand, learned counsel for the respondent submitted that nature of duties and responsibilities and so also working conditions of the petitioners/nurses are entirely different than the nurses who work in dispensaries or in hospitals. Therefore, respondents have rightly taken a decision to not to extend the benefit of revised rate of allowance of nurses in the respondent-department.

5. Heard, learned counsel for the parties.

6. The crux of the matter in present petition is whether petitioners are entitled to revised rate of Nursing allowances or not? Pursuant to the official memorandum dated 17/19.11.2008 (Annexure P-3). The grievance of the petitioners is that they have been extended the benefit of revised rate of uniform and washing allowances, however, respondents have not extended the benefit of nursing allowances at the revised rate. The contention of the respondents that working pattern and place of working are entirely different in respect of petitioners and those persons who are working in dispensaries and hospitals cannot be accepted for the reasons that nature of duties and responsibilities of nurses irrespective of working in dispensaries, hospitals and clinics would be

identical. The said issue has been taken note of by the Ministry of Defence on 09.12.2016, thus they have extended the benefit of revised rate of nursing allowance ₹3200-4800 w.e.f. 04.08.2016 on account of increase of Dearness Allowance by 100% that means Defence Department is of the view that nurses who are working in the Defence Department were already extended the benefit of revised rate of ₹ ₹3200/- per month w.e.f. November 2008 so as to extend revised rate from ₹3200-₹4800/- w.e.f 04.08.2016.

Even whenever it is not extended it would be discrimination. In view of these facts and circumstances of the case, (Annexure P-11) dated 18.08.2015 is set aside, matter is remanded to the concerned authority for passing of a speaking order in terms of the order dated 19.12.2016 (Annexure P2). Since Ministry of Defence is of the view that nursing staff in the respondent department were already extended the benefit of revised rate of ₹3200/- per month and they have to be extended further at revised rate i.e. ₹4800/- w.e.f. 4.8.2016.

7. The concerned respondent is hereby directed to calculate rates of nursing allowance of the petitioner and arrears shall be disbursed. Further, respondents are directed to implement the decision of the Ministry of Defence 19.10.2016 insofar as the extending the benefit of nursing allowances from ₹3200-4800/- w.e.f 04.08.2016. The above exercise shall be completed by the concerned respondent within a period of four months from the receipt of certified copy of this order.

February 16, 2018

Poonam (II)

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasoned:

Yes

Whether reportable:

No