

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

**CWP No. 26571 of 2015
Decided on : 24.01.2018**

Vigilant Citizens Forum

. . . Petitioner

Versus

State of Punjab and others

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

PRESENT: Mr. J.S. Rana, Advocate for
Mr. H.C. Arora, Advocate
for the petitioner.

Mr. Shireesh Gupta, Sr. DAG, Punjab.

AJAY KUMAR MITTAL, J. (Oral)

The petitioner has approached this court by way of Public Interest Litigation (PIL) under Articles 226 of the Constitution of India, seeking quashing of notification dated 15th January, 2015 (appended as Annexure P-1), issued by respondent No.1 and its interpretation and circulation vide Circular dated 15th January, 2015 (Annexure P-2), communicating the decision of the State Government that in the case of new recruitment, the employees so recruited shall be paid minimum basic salary in the Pay Band (without any Grade Pay and annual increment or any other allowances except Travelling Allowance) during the initial two years of probation period, *inter alia*, on the ground that (i) the impugned notification amounts to exploitation of new recruits on account of prevailing position of unemployment and decision to offer them only basic pay at the minimum of the Pay Bank, which is stated to be such a meager amount that in the case of Group 'C' and Group 'D' employees. The monthly wages which is stated to be drawn by the new employees are even less than the minimum wages for

dated 24th April, 2015; (ii) and in certain cases, such fixed emoluments are less than even the daily wage rate under the MGNREGA Scheme (Mahatama Gandhi National Rural Employment Gurantee Scheme) under the 2005 Act, notified recently vide notification dated 31.03.2015 (Annexure P-5); and (iii) the impugned provisions are thus, patently arbitrary and unjustified and amount to exploitation of the unemployed persons which is patently against the conduct of a Model Employer like State Government; and (iv) the impugned notification had created a situation in which the Doctors being recruited through PCMS-1 (Group 'A' service) are not joining their posts on direct recruitment, since a fully qualified MBBS doctor under the aforesaid impugned notification gets fixed remuneration of ₹15,600/- per month only, which is a very meager amount. The doctors who are being recruited at minimum fixed remuneration of ₹15,600/- per month, are not joining their services on being offered appointment and as a result of which, the Rural Dispensaries and Primary Health Centres are not in a position to treat patients in the absence of doctors; and (v) in Civil Writ petition No. 2693 of 2007 (Gopal Kamawat Vs. The State of Rajasthan and others), a Division Bench of the High Court of Jaipur has quashed similar notification issued by the State of Rajasthan, and held that the payment of salary less than minimum wages to the employees amounts to violation of Article 23 of the constitution of India. Further, held that the payment of lessor salary to a person to which he is entitled on confirmation and successful completion of probation amounts to violation of provisions contained under Article 14 of the Constitution of India, as it amounts to giving different quantum of salary to different employees on the same post. Besides this, prayers for modifications of the

notifications Annexures P-1 & P-2 as well as restraining their operation during the pendency of writ petition have also been made.

2. Learned counsel for the petitioner candidly submitted that in view of Annexure R-4/T, dated 21st December, 2015, relating to amendment in the service conditions of the employees to be appointed on the posts lying vacant in the Government Departments against the direct recruitment quota, the Government has agreed to regulate the pay as per rate of DC/Labour Department to the categories of Government Officers/officials whose pay during the probation period is less than the pay as per rate of DC/Labour Department.

3. In view of the above, learned counsel for the petitioner prayed that the present writ petition has been rendered infructuous and may be disposed of as such.

4. Ordered accordingly.

(AJAY KUMAR MITTAL)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

January 24, 2018

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No