

CWP-7184-2018 (O&M)

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

**CWP-7184-2018 (O&M)
Date of decision : 10.07.2019**

Manoj and others

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sandeep Goyat, Advocate
for the petitioners.

Mr. Kiran Pal Singh, AAG, Haryana.

AMIT RAWAL, J. (ORAL)

The petitioners have approached this Court under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* quashing the action of the respondents for not granting the equal pay for equal work at par with the other regular employees.

Learned counsel for the petitioners submitted that petitioners have been appointed as Pharmacists/Lab Technicians, on contract basis, vide appointment letters (Annexure P-1 Colly), on fixed remuneration i.e. ₹10,340/- per month for Pharmacist and ₹9240 per month for Lab Technician. Earlier their services were terminated, but they invoked the jurisdiction of the Labour Court and in compliance of the order of the Labour Court, they have been reinstated. They are discharging the duties at par with the regular employees, whose initial start comes to ₹35,400/-

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(approx.), but the petitioners have been paid fixed salary as ₹10340/- for Pharmacist and ₹9240/- for Lab Technician. They are entitled to admissible/minimum pay scale. In support of his contentions, relies upon *ratio decidendi* culled out by Hon'ble the Supreme Court in **“Hargurpratap Singh V/s State of Punjab and others” 2007 (13) SCC 292** and **“State of Punjab & others V/s Jagjit Singh & others” (2017) 1 SCC 148**.

Learned State counsel has drawn the attention of this Court to para No.1 of the written statement giving the comparative statement regarding difference in nature of duties and responsibilities of Pharmacists as well as Lab Technicians. The pith and substance of the opposition/ground is that the petitioners are not discharging the same duties, therefore, are not entitled for equal pay for equal work, thus, urges this Court for dismissal of the present writ petition.

I have heard learned counsel for parties, appraised the paper book and of the view that it is a fit case, where the petitioners are entitled to the admissible/minimum pay scale. The reason is not one but many:-

(i) Written statement is bereft of the fact that petitioner Nos.1 to 3 & 4 to 5, who are working as Pharmacists and Lab Technicians, respectively, are ineligible and incompetent to discharge the duties nor there is any explanation, whether they cannot perform the duties as indicated in the chart.

(ii) The regular employees are working as Pharmacists/Lab Technicians and once they can discharge the duties, there cannot be any remotest doubt that the petitioners are incompetent.

(iii) It is strange that the State is adopting dichotomous approach, where even after giving the contractual appointment like in the

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office of Advocate General, Haryana, minimum pay scales are being given to the persons equivalent to their job in hierarchy.

In **Hargurpratap Singh's case** (supra), Hon'ble the Supreme Court, in penultimate paragraph, has laid down as under:-

"We have carefully looked into the judgment of the High Court and other pleadings that have been put forth before this Court. It is clear that though the appellants may not be entitled to regular appointment as such it cannot be said that they will not be entitled to the minimum of the pay scale nor that they should not be continued till regular incumbents are appointed. The course adopted by the High Court is to displace one ad hoc arrangement by another ad hoc arrangement which is not at all appropriate for these persons who have gained experience which will be more beneficial and useful to the colleges concerned rather than to appoint persons afresh on ad hoc basis. Therefore, we set aside the orders made by the High Court to the extent the same deny the claim of the appellants of minimum pay scale and continuation in service till regular incumbents are appointed. We direct that they shall be continued in service till regular appointments are made on minimum of the pay scale."

In the absence of any specific denial with regard to ineligibility and incompetency of the petitioners, I am of the view that the petitioners are entitled to the admissible/minimum pay scale, which the regular employees, are entitled to, thus, the present writ petition is allowed and the respondents are directed to pay the minimum/admissible pay scales to the petitioners from the period, they are eligible, along with consequential benefits, if any, in accordance with law.

Let this exercise be done within a period of two months from the date of receipt of certified copy of this order, failing which, there shall

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be costs of ₹50,000/- to be recovered from the salary of the concerned
Officer and paid to the petitioners towards litigation expenses.

10.07.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No