

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

CWP-9225-2017

Date of Decision: 17.02.2020

Sh. Shekhar Sharma and others

...Petitioners

Versus

Union of India and others

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present: Mr. Dhiraj Chawla, Advocate for the petitioners.

Mr. Ajay Kumar Gupta, Senior Panel Counsel
for respondent Nos. 1 and 2.

Mr. Vikas Chatrath, Advocate for UT Chandigarh.

SANT PARKASH, J.

The present writ petition under Article 226 of the Constitution of India is directed against the order dated 22.03.2017 (P-2) passed by the Central Administrative Tribunal (for short 'The Tribunal), vide which the Original Application preferred by the petitioners was dismissed holding that since the applicants/petitioners were engaged on contract basis for a special project of National Health Mission (NHM), therefore, they are neither the employees of Central government nor holding of civil posts of State/UT and hence, not entitled to equal pay at par with the pay scale of government employees, in terms of the judgment of Hon'ble Apex Court rendered in the case of **State of Punjab Vs Jagjit Singh and others, 2017 (1) SCC 148.**

Brief facts of the case are that the applicants/petitioners claim equal pay at par with the pay scale of regular staff of the Government.

Admittedly, the petitioners were engaged on contract/temporary basis under

a Special Project of National Health Mission ('NHM'). They served a legal notice dated 03.07.2016 (A-5) claiming consideration for regularization of their service and grant of regular pay scale along with other service benefits upon the respondents. However, vide letter dated 30.12.2016 (A-7), the claim of the applicants/petitioners was declined. Feeling aggrieved, the applicants approached the Tribunal by filing original application, which too, has been dismissed vide impugned order assailed in this petition.

Hence, the present writ petition.

On 02.05.2017, following order was passed by this Court:-

“Let notice of motion be issued to the respondents for 02.11.2017 only on the ground as to why the petitioners be not granted minimum of the pay-scale as admissible to regular counter-parts.”

Learned counsel for the petitioners has placed reliance on equivalency Table (Annexure A-2) to show the dates of joining of the petitioners, the post they are working and the equivalent posts carrying regular pay scales.

On a specific query put to the learned counsel for the petitioners, he has not been able to point out or show any material whether the nature and duties being performed by the petitioners are comparable to the duties performed by their counter parts as per Annexure A-2, who have been appointed on regular basis in the Government Departments. It is also conceded that there are no regular sanctioned posts with pay scales under the NHM.

It is well settled principle of law that where there is no comparison between one set of employees of one organisation and another

set of employees of a different organization, there can be no question of granting of minimum pay scales to the petitioners when there is nothing on record to depict that the petitioners, who are contractual employees of the State Health Society, are performing even similar or identical functions to regular employees as reflected in Annexure A-2.

It is the case of the petitioners themselves that they were engaged on contrary/temporary basis under a special project of sub-mission of NHM to eradicate the dangerous diseases and to strengthen health care systems prevalent in State/UTs, formulated a scheme of sub-mission of National Rural Health Mission. Thus, it can be safely concluded that the petitioners were working under a special indicated programme of NHM and not holding any civil post.

A similar issue came up before the Hon'ble Supreme Court in the case of **State of Punjab v. Joginder Singh, 1963 Suppl. 2 SCR 169**, wherein it has been observed as under:-

“As we have stated already, the two services started as independent Services. The qualifications prescribed for entry into each were different, the method of recruitment and the machinery for the same were also different and the general qualifications possessed by and large by the members of each class being different, they started as two distinct classes. If the government order of September 27, 1957, did not integrate them into a single service, it would follow that the two remained as they started as two distinct services. If they were distinct services, there was no question of inter se seniority between members of the two services, nor of any comparison between the two in the matter of promotion for founding an argument based upon Article 14 or Article 16(1). They started

dissimilarly and they continued dissimilarly and any dissimilarity in their treatment would not be a denial of equal opportunity, for it is common ground that within each group there is no denial of that freedom guaranteed by the two Articles. The foundation therefore of the judgment of the learned judges of the High Court that the impugned rules created two classes out of what was formerly a single class and introduced elements of discrimination between the two, has no factual basis if, as we hold, the order of September 27, 1957, did not effectuate a complete integration of the two Services. On this view it would follow that the impugned rules cannot be struck down as violative of the Constitution.”

Moreover, learned counsel for the petitioners has not been able to point out any illegality or perversity in the impugned judgment passed by the learned Tribunal.

In view of the above, we do not find any merit in the present writ petition and accordingly, the same is dismissed.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

17.02.2020
mks

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