

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION No.3790 of 2004

ORDER:

This writ petition is filed seeking a writ of *mandamus* declaring the proceedings *vide* Lr.No.WRC/17(3)/95/PF/Court Cases, dated 20.01.2004, of the respondent No.2, as illegal and arbitrary, and consequently, to direct the respondent Corporation to grant higher pay scale of Rs.450-850 (pre-revised), which is applicable to Assistant Grade I, to the petitioner, with effect from the date of her joining together with subsequent corresponding revised pay scales and consequential attendant benefits.

Learned counsel for the petitioner has submitted that the petitioner was appointed as a Nurse in the respondent Corporation in the pay scale of 150-10-300 *vide* order dated 04.05.1976. Learned counsel has further stated that there was anomaly in the pay scale of Nurse and Pharmacist, but the said anomaly has not been rectified. That in the revised pay scales, the petitioner's pay scale has been fixed at Rs.380-640. Therefore, the learned counsel prayed this Court to allow the present writ petition duly setting aside impugned proceedings dated 20.01.2004.

Learned Standing Counsel appearing on behalf of the respondent Corporation has opposed the very maintainability of the writ petition stating that no rules and regulations were framed when the petitioner was initially appointed as Nurse in the respondent Corporation on 04.05.1976 in the pay scale of Rs.150-10-300. That the pay scale of the petitioner was revised from time to time and she was promoted as Senior Nurse on 26.05.2003. That the contention of the learned counsel for the petitioner that the petitioner is entitled to the higher pay scale than the Pharmacist is without any legal basis, as the duties and qualifications of the Nurse are different from that of the Pharmacist, and therefore, there cannot be any comparison between the said two posts. It is further contended that the respondent Corporation is not a medical oriented organization and that as per the Food Corporation of India (Staff) Regulations, 1971, the qualifications and duties of the Pharmacist and Nurse are totally different and they cannot be compared to one another. Learned Standing Counsel has further stated that the pay scale of the petitioner has been properly fixed. Moreover, the petitioner has already taken VRS on 11.02.2004 and in the absence of rules and regulations to equate the post of Pharmacist to that of the Nurse, the relief sought for by the petitioner cannot be granted.

A perusal of the record shows that the petitioner was initially appointed as a Nurse in the respondent Corporation on 04.05.1976 in the pay scale of Rs.150-10-300. Thereafter, the said pay scale has been revised *vide* order dated 22.05.1980 and her pay was fixed in the revised pay scale of Rs.380-640. Subsequently, the petitioner was promoted as Senior Nurse and her pay scale was re-fixed accordingly.

Admittedly, the petitioner has taken VRS on 11.12.2004. The petitioner has not filed any reply to the counter affidavit filed by the respondents. Moreover, nothing is placed on record to show that the qualifications and duties of Pharmacist and Nurse are one and the same. In the absence of any rules and regulations equating the two posts of Pharmacist and Nurse as one and the same or in the same pay scale, the question of fixing the pay scale of the petitioner on par with Assistant Grade I does not arise.

Having regard to the above, this Court does not find any merit in the present writ petition and the same is, accordingly, dismissed.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. ABHISHEK REDDY, J

Date: 02.02.2023
Nsp