

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5266 of 2020 (O&M)
Date of decision: 25.01.2023

Amandeep and others

..Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Suram Singh Rana, Advocate
for the petitioners.

Mr. R.S.Pandher, Sr. DAG, Punjab

ANIL KSHETARPAL, J(Oral)

1. The petitioners pray for the issuance of a writ in the nature of certiorari to quash the impugned order dated 21.11.2019 passed in pursuance to the directions of the Court in Civil Writ Petition No.11492 of 2019.
2. The petitioners are Medical Laboratory Technicians Grade-I and Grade-II. They claim that apart from the pay scale of Rs.10300-34800, they are entitled to Grade Pay of Rs.4200/- at par with the Health Supervisors. The competent authority, in its impugned order, after considering the various aspects of the matter observed as under:-

“That in compliance of the order dated 26.10.2018 of the Hon'ble Punjab and Haryana High Court, the claim of the petitioner was examined observations are as under:

(a) That the petitioners submitted their representation dated 11.3.2019 reiterating their prayer as in the above said Civil Writ Petition.

It is observed that on 1.1.2006 Medical Laboratory Technicians had minimum qualification 10 with science subjects plus diploma, as per 2007 it was 10+2 with Science and Diploma and now as per 2016 Rules it is 10+2 with Science (Physics, Chemistry, Biology) with two year diploma in Medical Laboratory Technology or Matriculation examination with Science and three years

diploma in Medical Laboratory Technology or BSc in Medical Laboratory Technology.

(b) That the Anomaly Committee and the cabinet Sub Committee also did not recommend higher pay scales for the post of Medical Laboratory Technicians and these recommendations have been implemented. As per recommendation of the Fifth Punjab Pay Commission, the Medical Laboratory Technician Grade-2 are drawing pay scale of Rs. 10300-34800+3600 Grade Pay, Medical Laboratory Technician Grade-1 are drawing pay scale of Rs. 10300-34800+4200 and Senior Medical Laboratory Technicians are drawing pay scale of Rs. 10300-34800+4800 Grade Pay according to General Conversion Table.

(c) So far as the promotional avenues are concerned, the representationists are entitled to next grade pay in the hierarchy of pay scale after 4,9 and 14 years of service under Assured Career Progression Scheme.”

3. The learned counsel representing the petitioners while referring to the tabulated compilation of the respective pay scales of the Medical Laboratory Technicians Grade-II, Pharmacist and Health Supervisor submits that throughout, their pay scale at 3 different cadres has been the same, therefore, the petitioners have been discriminated.

4. It is evident that the cadres of Pharmacist and Health Supervisors are distinct. Moreover, the scope of judicial review in such matters is very limited. The calculation and determination of pay scale or grade pay is a highly specialized task which should be left to the experts bodies like Pay Commission or Anomaly Committee. The Anomaly Committee or cabinet did not recommend a higher pay scale for the petitioners. The 5th Pay Commission advised the Government to pay a separate Grade pay to the Medical Laboratory Technician Grade-I and Grade-II and Senior Medical Laboratory Technicians. The parity of pay is not an abstract concept. It is subject to various established factors.

Recently, the Supreme Court in **State of Bihar vs. Bihar Secondary Teachers Struggle Committee, Minger and others (2019) 18 SCC 301** has laid down the following parameters to be considered by the Court before applying the doctrine of “Equal Pay for Equal Work”:-

“96.1 Analysis of the decisions referred to above shows that this Court has accepted following limitations or qualifications to the applicability of the doctrine of ‘equal pay for equal work’:-

96.1) The doctrine of ‘equal pay for equal work’ is not an abstract doctrine.

96.2) The principle of ‘equal pay for equal work’ has no mechanical application in every case.

96.3) The very fact that the person has not gone through the process of recruitment may itself, in certain cases, makes a difference.

96.4) The application of the principle of ‘equal pay for equal work’ requires consideration of various dimensions of a given job.

96.5) Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere.

96.6) Granting pay scales is a purely executive function and hence the court should not interfere with the same. It may have a cascading effect creating all kinds of problems for the Government and authorities.

96.7) Equation of posts and salary is a complex matter which should be left to an expert body.

96.8) Granting of pay parity by the court may result in a cascading effect and reaction which can have adverse consequences.

96.9) Before entertaining and accepting the claim based on the principle of equal pay for equal work, the Court must consider the factors like the source and mode of recruitment/appointment.

96.10) In a given case, mode of selection may be considered as one of the factors which may make a difference.”

5. Keeping in view the aforesaid facts, the writ petition is dismissed.

6. All the pending miscellaneous applications, if any, are also disposed of.

January 25, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No