

2023:PHHC:043680

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

CWP-2989-2013 (O&M)

Date of decision: 23.03.2023

Dilpreet Singh and others

....Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. Kapil Kakkar, Advocate for the petitioners

Mr. R.K. Kapoor, Addl. AG, Punjab

ANIL KSHETARPAL, J (Oral)

1. The petitioners pray for the issuance of a writ in the nature of Mandamus to direct the respondents to grant the same pay scale as is payable to the Pharmacist and Chief Pharmacist Grade II working in the same Department. The petitioners are working as Radiographers and Senior Radiographers. They claim parity of pay on the ground that their post has been equivalent to the post of Pharmacist and Chief Pharmacist Grade II since inception.

2. The petitioners have failed to draw the attention of the Court to any conscious decision of the competent authority to equate the post of Radiographers and Senior Radiographers to that of the Pharmacist and Chief Pharmacist Grade II for the purposes of pay. Merely because at one point of time both the posts were in the same pay scale that by itself is not sufficient to issue the writ. Equation of pay is a complex job, which is expected to be examined by the Pay Commission or the Pay Anomaly Committee. A Constitutional Court should always be reluctant

in issuing the writ in the absence of sufficient material. 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.”

- 3. Keeping in view the aforesaid facts, this Court does not find it appropriate to issue the writ, as prayed for.
- 4. Hence, dismissed.
- 5. All the pending miscellaneous applications, if any, are also disposed of.

23.03.2023
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE