

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Reserved on: 10th January, 2023
Pronounced on: 20th March, 2023

+ W.P.(C) 7734/2020

HEMANT KUMAR

..... Petitioner

Through: Mr. Joby P. Varghese, Mr. Shahid
Akhtar & Mr. Aby P. Varghese,
Advocates.

versus

SASHASTRA SEEMA BAL & ANR.

..... Respondents

Through: Mr. Anshuman, Sr. Panel Counsel.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J

1. The present petition has been filed under Article 226 of the Constitution of India by the petitioner seeking the following reliefs:

“1. Quash Impugned Order dated 10.08.2020 passed by Respondent No. 1 for being arbitrary, perverse and violate of Article 14 and 16 of the Constitution of India;

2. Issue a writ of Mandamus or any other like writ, order or direction in the nature thereof directing the Respondents to grant and pay revised pay and other benefits to the Petitioner in terms of the pay structure/pay fixation (PB 2800/Pay level 5) recommended for Lab Assistants under the 7th Central Pay Commission Recommendations with effect from the 1st day of January 2016 with arrears.”

2. The petitioner was appointed as Lab Assistant in the Pay Scale of Rs. 5200-20200/- with Grade Pay of Rs. 2000/-. *Vide* Notification No. 1/1/2013-E.III (A) dated 28.02.2014, the Seventh Central Pay Commission (*hereinafter referred to as* “7th CPC”) which was appointed by the Government of India to examine and review the existing pay structure and to recommend changes in the pay, allowance and other facilities for Civil and Defence employees, recommended the replacement of the existing system of pay bands and grade pay with a new pay matrix by applying a fitment factor of 2.57 to be applied uniformly for all employees. .
3. The recommendations of the 7th CPC were accepted by the Ministry of Finance with minor alterations and exceptions on 25.07.2016 *vide* Notification No. 1-2/2016-IC. Consequently, the salary of the employee hitherto determined by their grade pay, is now determined in terms of the recommendations of the 7th CPC, by their level in the pay matrix.
4. It is asserted that the petitioner is working as Laboratory Assistant (Constable) and is posted with the 69th BN of the respondent No.2/Union of India in the Grade Pay -2000/-.
5. Prior to the recommendations of the 7th CPC, the Ministry of Health and Family Welfare (*hereinafter referred to as* “MoHFW”) carried out a Cadre Review of the Laboratory Staff and the same was finalised with the concurrence of the Ministry of Finance, Government of India. The restructured/revised entry level qualification, grade pays and nomenclatures of different posts as approved by the MoHFW is as under:

Existing Post	Grade Pay of Existing Post	Nomenclature of the Revised Post	Grade Pay of Revised Post	Mode of Recruitment	Qualification for Direct Recruitment
Laboratory Assistant	2000/- 2400/- 2800	Junior Medical Laboratory Technologist	2800	100% direct	Class XII with Science and DMLT with one year experience. Desirable Qualification is Bachelor Degree in Medical Laboratory Science
Laboratory Technician/ Blood Bank Technician	2800	Medical Laboratory Technologist	4200	50% direct 50% promotion	Bachelor Degree in Medical Laboratory Science with two years'
Technical Assistant/Sr Laboratory Tech/Museum Curator/Sr. Blood Bank Tech	2800	Medical Lab Technologist	4200	100% promotion	
Senior Technical Assistant (Lab)/Technical Supervisor (Lab)	4200	Technical Officer (MLT)	4600	100% promotion	
Junior Technical Officer/Technical Supervisor (Lab)	4600	Senior Technical Officer (MLT)	4800	100% promotion	
New Post		Chief Technical Officer	5400 (PB-3)	100% promotion	

6. The 7th CPC noted the Cadre Review carried out by MoHFW and recommended the administrative Ministries to take appropriate steps for aligning the laboratory staff under their respective jurisdictions on the lines reflected in the cadre restructuring and review undertaken by MoHFW. The existing Grade Pay of 2000/2400/2800 for Laboratory Assistant has now been unified with one Grade Pay of 2800 as per 7th CPC and the Grade Pay 2800 is subsumed in Pay Level 5.

7. The petitioner has claimed that despite the implementation of the recommendations by the MoHFW with the approval of the Ministry of Finance, the petitioner is still continuing to draw his salary under the old Grade Pay of PB 2000.

8. The petitioner serves in the hospitals run by the respondent No. 2/Union of India and is involved in analyzing samples of body tissue and fluids taken from hospital patients, including blood, urine, faeces, saliva and swab and performs the same work which his counterparts do in other Hospitals and Clinics, working under other Government Departments.

9. It is asserted that the some of the Ministries have also undertaken Cadre Review on the same lines of MoHFW and the counterparts of the petitioner working in hospitals, health establishments and institutions under MoHFW are already reaping the benefits of the recommendations of 7th CPC. However, the same has not been extended to the petitioner despite the revised Pay Rules having been notified by the Ministry of Defence *qua* its three Services in the year 2017 itself. The petitioner is aggrieved by the fact that similarly situated persons doing similar duties

are drawing a higher salary for the same post, in view of 7th CPC recommendations.

10. The petitioner submitted his Representation dated 24.01.2020 to the Director General, Sashastra Seema Bal (*hereafter referred to as "SSB"*), but no action has been taken on his representation by the respondents.

11. The petitioner has further asserted that in terms of Notification No. 1-2/2016-IC dated 25.07.2016, the revised pay structure and the consequent pay fixation according to 7th CPC, was directed to be made effective from 01st day of January, 2016. However, till date, the same is not made effective *qua* the petitioner and consequently, the petitioner is entitled to arrears on that account.

12. Aggrieved by the inaction of the respondents, the petitioner filed the Writ Petition bearing No. W.P.(C) 3921/2020 titled Hemant Kumar vs. Union of India & Anr. before this Court and the same was disposed of *vide* Order dated 06.07.2020 directing the respondents to decide the representations of the petitioner as well as others similarly situated persons as the petitioner, within six weeks.

13. The respondent No. 1 *vide* the impugned Order dated 10.08.2020 rejected the claim of the petitioner on the arbitrary and evasive ground that the recommendations of 7th CPC and MoHFW O.M. dated 28.09.2016 are applicable to those entry level posts which carry a professional entry level qualification of '*Class XII with Science and Diploma in Medical Laboratory Technology (DMLT) with one year experience and desirable qualification as Bachelor Degree in Medical Laboratory Science.*' The impugned Order dated 10.08.2020 further states that the petitioner and other similarly situated personnel are not eligible for the benefits *qua* the

7th CPC as the post of a Constable (Lab Assistant) in SSB is prescribed to have professional qualification as *'Matriculation with Science and Professional Certificate in Laboratory Assistant Course.'*

14. The relevant paragraphs of the impugned Order dated 10.08.2020 read as under:

"6. Therefore, in compliance to the judgment dated 06.07.2020 passed by the Hon'ble High Court of Delhi in WP No. 3931/2020, representation of UIN-10050625 CT (Lab Assistant) Hemant Kumar of 69 Bn. SSB Rangpo has been examined afresh and it is observed that the referred recommendations of 7th CPC and MOH&FW OM dated 28.09.2016 are applicable only to those entry level posts which carry professional qualification as Class XII with Science and DMLT (Diploma in Medical Laboratory Technology) with one year experience and desirable qualification as Bachelor degree in Medical laboratory Science. Whereas, the incumbents i.e. Constable (Lab Assistant) is prescribed to have professional qualification as "Matriculation with Science and possession certificate in laboratory assistant Course." However, the post of ASI(Lab Tech) in SSB, is as entry level post carry these professional qualifications i.e. "Class XII with Science and DMLT(Diploma in Medical Laboratory Technology) with one year experience and desirable qualification as Bachelor degree in Medical laboratory Science and eligible to draw Grade Pay of Rs. 2800/- revised to Level-5.

7. Now Therefore, the representation of UIN- 10050625 CT (Lab Technicians possession professional qualification of Class-XII with Science and DMLT, is not justified and hence rejected. Further, the instructions issued vide MoH&FW OM dated 28.9.2016 are applicable for Hospitals/Institutions/Health establishments under Ministry of Health & Family Welfare only, as no order/direction in this regard has been received from MHA Representations of other similarly situated personnel (including petitioner) may

also be disposed of on similar lines.”

15. The petitioner has claimed that at the time of his appointment in the Hospital run by the respondent No. 2, there was no such professional requirement i.e., ‘*Class XII with Science and Diploma in Medical Laboratory Technology with one year experience and desirable qualification as Bachelor Degree in Medical Laboratory Science.*’

16. It is asserted that the change in requisite qualification for entry level posts after appointment of the petitioner cannot be treated as a reasonable nexus for distinguishing the petitioner from his counterparts who do similar work in other hospitals and clinics working under other Governmental Departments and are drawing the benefits of the 7th CPC.

17. It is claimed that as per the guidelines issued by MoHFW, the counterparts of the petitioner in Central Government Health Scheme (CGHS) are already taking benefit *qua* the pay in terms of the recommendations of the 7th CPC irrespective of their qualifications.

18. The MoHFW, being the Nodal Ministry for all healthcare professionals in the country, *vide* its Letter dated 05.04.2018 bearing Reference No. F.NO.G.12011/06/2015-CGHS.II upgraded the Pay Scale of Laboratory Staff working in the hospitals, dispensaries etc. under the CGHS as per the 7th CPC recommendations w.e.f. 01.01.2016 and the same has been made applicable to all the employees holding the post of Laboratory Assistant and Laboratory Technician irrespective of the qualifications being held by them and the newly recommended Entry Level qualifications have been made applicable only for future appointment/promotions. The recommendations of the 7th CPC were made applicable to all the Government employees who are paid out from

the Consolidated Fund of India, without any discrimination amongst any Departments or Ministries.

19. It is averred that since the petitioner is also paid out of the Consolidated Fund of India similar to his counterparts working in CGHS, it cannot be said that the Lab Technicians working under MoHFW are separate from the Lab Assistants and Lab Technicians working under the Ministry of Home Affairs. No such discrimination was made by the Union of India while approving and accepting the recommendations of the 7th CPC.

20. It is asserted that the counterparts of the petitioner working in the hospitals under MoHFW are drawing the benefits of the 7th CPC recommendations, but the petitioner who is similarly placed, is drawing lesser pay while working in hospitals operated by the respondents despite performing the same nature of duty and hence has claimed pay parity.

21. **The respondents in their counter-affidavit** have submitted that the recommendations of the 7th CPC have already been implemented and the multiplication/fitment factor of 2.57 has already been applied *qua* the pay structure of the petitioner. Insofar as the claim of the petitioner that the parity with the Lab Assistants under the hospitals of MoHFW with respect to Grade Pay is concerned, the entry level qualifications for them is different from that applicable to the petitioner under SSB Recruitment Rules.

22. Reliance has been placed on the decision in M.P. Rural Agriculture Extension Officers Association vs. State of Madhya Pradesh (2004) 4 SCC 646, wherein it was held that where entry level educational qualifications is different, no parity can be claimed.

23. It is claimed that there is no violation of any Fundamental Right or legal right of the petitioner. It is a trite law that no employee can claim “*Equal Pay for Equal Work*” based on the nomenclature of the post and it is primarily an executive function and until and unless there is wholesome identity of the two posts, the claim for equal pay cannot be maintained.

24. It has been further explained that as per the Recruitment Rules of Constable (Lab Assistant) notified *vide* GSR.730(E) dated 28.09.2021, the following educational qualifications are required: –

- “(i) *Matriculation with Science from a recognized Board or Institution,*
- (ii) Should have certificate in Laboratory Assistant Course from an Institution recognized by Central Government or State Government.”*

25. It is asserted that as per the SSB Recruitment Rules, the educational qualification for the Post of Constable (Lab Assistant) is *Matriculation with Science and candidate should have certificate in Laboratory Assistant Course from an Institution recognised by the Central Government or the State Government*, whereas the revised Entry Level qualification notified by MoHFW is totally different from personnel posted in SSB under the Ministry of Home Affairs. Therefore, the petitioner cannot claim pay parity with MoHFW Review Cadre.

26. The petitioner was provisionally selected for the Post of Constable (Lab Assistant) and was given offer of appointment *vide* CTC, SSB, Sapri *vide* Memorandum No. E-71/OFF.APPT/TCS/SSB/2013/22862-63 dated 27.11.2013 for the post in the PB-I Pay Scale of Rs. 5200-20200/- with Grade Pay 2000/-. The petitioner was accordingly appointed to the said post w.e.f. 08.01.2014 (F/N) at CTC Sapri. The petitioner was drawing

pay of Rs. 6,700/- + GP Rs. 2000/- as on 31.12.2015 i.e., before implementation of 7th CPC. His pay was fixed at Rs. 23,100/- w.e.f. 01.01.2016 by multiplying his old pay with multiplication factor of 2.57 as per the recommendations of 7th CPC and the same was admitted by PAO, SSB, New Delhi on 11.12.2016. The arrears, on account of pay fixation under 7th CPC for the period January, 2016 to July, 2016 @ Rs. 24,452/-, have already been paid to the petitioner.

27. It is further asserted that the Representation dated 24.01.2020 submitted by the petitioner was received on 17.06.2020. In the interim, some other Constables (Lab Assistant) preferred application with regard to pay parity with other Lab Technicians in Central Government hospitals in terms of MoHFW O.M. dated 28.09.2016. The grievance was examined at FHQ and it was found that the instructions issued *vide* MoHFW O.M. dated 28.09.2016 related to hospitals, institutions or health establishments under MoHFW only, and was not applicable to the Lab Assistant working in SSB under the administrative control of Ministry of Home Affairs. This aspect was brought to the notice of the concerned official *vide* FAX Message No. 1/28/2020/SSB/Pers-V(77)/2378 dated 04.06.2020.

28. The petitioner filed the Writ Petition bearing No. W.P.(C) 3931/2020 titled Hemant Kumar vs. Union of India & Anr. before this Court with a prayer to grant revised pay and other benefits in terms of the pay structure/pay fixation in Grade Pay of Rs. 2800/- (Level-5) in accordance with MoHFW O.M. dated 28.09.2016. The said writ petition was disposed of by this Court *vide* Order dated 06.07.2020 with the directions “*that the representation made by the petitioner and others who*

are similarly placed may be disposed within six weeks with liberty to the petitioner, if he remains aggrieved from the decision, to take remedies available in law”.

29. Thereafter, the representation of the petitioner was examined afresh and it was observed that MoHFW O.M. dated 28.09.2016 pertains to the hospitals, institutions or health establishments under MoHFW. Accordingly, the representations of the petitioner and other similarly situated personnel were disposed of by FHQ SSB, New Delhi *vide* Speaking Order No. 10-09/20/Court Case/2020/Med/Pers-III/10764-10873 dated 10.08.2020.

30. It is asserted that the salary of the petitioner has been fixed in terms of the recommendations of 7th CPC, and the petitioner cannot claim pay parity with the Cadre Review of MoHFW. The petitioner is governed by different Service rules and the equity of pay and rank with another Department, cannot be equated. The petitioner is getting other benefits as provided to Armed Forces which are not applicable to the employees of MoHFW and therefore, instructions of MoHFW are not applicable to SSB.

31. **The petitioner in his Rejoinder** has asserted that the 7th CPC does not discriminate between persons like the petitioner working under the Ministry of Home Affairs and the Lab Assistants working in MoHFW, on the basis of their qualifications. On the contrary, 7th CPC specifically recommended the administrative Ministries to take appropriate steps for aligning the Laboratory Staff under their respective jurisdiction on the lines reflected in the recommendations.

32. It is submitted that till date, no action has been taken in this respect

by the respondents and the petitioner continues to draw salary in the old Grade Pay.

33. It is asserted by the learned counsel for the petitioner that at that time the petitioner was appointed in the hospital run by the respondent No. 2 and there was no requirement of such professional qualification and, therefore, the benefit of 7th CPC cannot be denied to the petitioner for no fault of his own. The change in requisite qualification for entry level posts after appointment of the petitioner, cannot be a reason for distinguishing the petitioner from his counterparts who do similar work in other hospitals and clinics under the Governmental Department.

34. Furthermore, it was re-iterated that the MoHFW being a Nodal Ministry for all Healthcare professionals in the country, *vide* its Letter dated 05.04.2018 bearing Reference No. F.NO.G.12011/06/2015-CGHS.II, upgraded the pay scale of Laboratory Staff working in CGHS as per the 7th CPC Recommendations w.e.f. 01.01.2016 and made applicable to all the employees holding the post of Laboratory Assistant and Laboratory Technician in CGHS irrespective of the qualifications that they presently held and the recommended new Entry Level qualifications were made applicable only for future appointment/promotion.

35. It is asserted that the petitioner, like his counter-parts, is being paid from the Consolidated Fund of India and no discrimination was made by the Union of India while approving and accepting the recommendations of the 7th CPC. Once the Pay Commission recommendations have been made *qua* all Government employees and duly approved and accepted by the Union of Government, they need to be implemented without any discrimination and the same treatment must be applied to the case of the

petitioner as well.

36. It is asserted that the recommendations of the 7th CPC are implemented in letter and spirit only *qua* some Government employees, working with some Ministries, and the same is violative of the Articles 14 and 16 of the Constitution of India and the same are liable to be struck off.

37. **Submissions heard.**

38. The Pay Commission is constituted in every 10 years for rationalising the salaries of the employees working in various Departments and the Ministries of the Government in order to factor in the price escalation and the inflation index. Although, the Pay Commission is considered as an expert body, it is only recommendatory and it is left to the wisdom of the States and the Ministries in furtherance of their decisions to accept or not to accept the recommendations. The State, in exercise of its jurisdiction conferred upon it by the proviso appended to Article 316 of the Constitution of India, can unilaterally make or amend the conditions of service of its employees by framing appropriate rules. A policy decision that is adopted by a particular State cannot *ex facie* be termed to be arbitrary or irrational, attracting the wrath of Article 14 of the Constitution of India under all circumstances.

39. The 7th CPC, on the basis of Cadre Review of the Laboratory Staff finalised by MoHFW in concurrence with Ministry of Finance, Government of India, had approved/re-structured/revised the grade pay and nomenclature of the Laboratory Assistant and recommended re-placement of pay levels for the Laboratory Staff. At the same time, the 7th CPC made further recommendation in Clause 7.7.31 which reads as under:

*“7.7.31 The approach of this Commission is to bring about uniformity in the entry level qualifications, nomenclatures and pay scales while dealing with cadres with similar job content and responsibility across organisations. The cadre of Laboratory Staff presents a fit case for such harmonization. Accordingly, **the Commission recommends that administrative ministries take appropriate steps for aligning the laboratory staff under their respective jurisdictions on the lines reflected in the above table.**”*

40. Essentially, the grievance of the petitioner is that despite performing duties similar to those performed by the Laboratory Staff under MoHFW, there is a pay disparity. In this regard, it may be pertinent to refer to the Judgement of the Supreme Court in Secretary, Finance Department vs. W.B. Registration Service Assn., reported in 1993 Supp (1) SCC 153, wherein the Supreme Court observed that pay fixation is essentially an executive function ordinarily undertaken by an expert body, like the Pay Commission whose recommendations are entitled to great weight, though not binding on the Government and are not justiciable in a court of law, since the court is not well-equipped to take upon itself the task of job evaluation, which is a complex exercise. This has been the consistent view as reflected in Parbhat Kiran Maithani vs. Union of India (1977) 2 SCC 36 and State of U.P. vs. J. P. Chaurasia, (1989) SCC 1 121.

41. The Supreme Court in its Judgement in Deputy Director General of Geological Survey of India vs. R. Yadaiah, (2001) 10 SCC 563 observed that ordinarily the Courts or Tribunals should not go into the question of fitment of the officers in a particular group or the pay scale thereto, and leave the matter to the discretion and expertise of the special Commission

like the Pay Commission, unless the court finds on materials produced that there is some apparent error.

42. The Supreme Court in the case of State of U.P. vs. U.P. Sales Tax Officers Grade II Association, (2003) 6 SCC 250 held that ordinarily the decision of expert bodies like the Pay Commission should not be ordinarily subjected to judicial review because pay fixation is an exercise requiring going into various aspects of the posts held in various services and nature of the duties of the employees. In K. T. Veerappa vs. State of Karnataka, (2006) 9 SCC 406 wherein also, it was held that the fixation of pay and determination of parity in duties are the functions of the Executive and the scope of judicial review of administrative decisions is very limited.

43. Likewise, the Supreme Court in Ramesh Singh vs. Union of India, (2008) 5 SCC 173, wherein it was noted that normally the Court does not substitute its views for those of expert bodies, like the Pay Commission, unless there is some glaring infirmities. {Also in Chandrashekar A.K. vs. State of Kerala, (2009) 1 SCC 73}.

44. This was again reaffirmed by the Apex Court in State of West Bengal vs. Subhas Kumar Chatterjee, (2010) 11 SCC 694, wherein it was observed that the State, in its wisdom and in furtherance of its valid policy, may or may not accept the recommendations of the Pay Commission which is undoubtedly an expert body, but the court should avoid giving a declaration granting a particular scale of pay or compelling the Government to implement the same. The courts, therefore, have been reticent on interfering in the policy consideration as in the case of T.N. Education Department, Ministerial and General Subordinate Services

Association vs. State of Tamil Nadu reported in (1980) 3 SCC 97.

45. In R. Thiagarajan vs. State of T.N. 2010 SCC OnLine Mad 6291, it was observed that equation of posts and determination of pay scale is essentially the function of the Executive. The courts must realise that joint evaluation is both a difficult and time consuming task which even expert bodies have found difficult to undertake sometimes for want of relevant data and scales for evaluating performance of different group of employees. This calls for a constant study of external comparisons and internal relativities on account of the changing nature of job requirements. The factors, which may involve the job evaluation, may include:

- (i) The work programme of his Department.
- (ii) The nature of contribution expected of him.
- (iii) The extent of his responsibility and accountability in the discharge of his diverse duties and functions.
- (iv) The extent and nature of freedoms/limitations available or imposed on him in the discharge of his duties.
- (v) The extent of powers vested in him.
- (vi) The extent of his dependence on superiors for the exercise of his powers.
- (vii) The need to co-ordinate with other Department, etc.

46. It was further observed that ordinarily the pay structure is evolved keeping in mind several factors which are:

- (i) Method of recruitment.
- (ii) Level at which recruitment is made.
- (iii) The hierarchy of service in a given cadre.
- (iv) Minimum educational/technical qualifications required.

- (v) Avenues of promotion.
- (vi) The nature of duties and responsibilities
- (vii) The horizontal and vertical relativities with similar jobs.
- (viii) Public dealing.
- (ix) Satisfaction level
- (x) Employer's capacity to pay.

47. Considering the complexities involved in Pay Fixation and working out fitment rules which essentially fall in the domain of the Executive, the courts generally refrain from venturing into this forbidden arena, unless some flagrant and blatant violation of inviolable constitutional right, is made out.

48. Coming to the facts in hand, the petitioner was employed to the Post of a Constable (Lab Assistant) and he joined his services on 27.11.2013. The recommendations of the 7th Pay Commission, for revised pay scales for the lab staff were essentially based on the Cadre Review which was carried out by Ministry of Health and Family Welfare. The Cadre Review is unique to each Department/Ministry and is essentially carried out to re-assess the promotional avenues. The considerations that prevail in MoHFW may not necessarily be attracted in the case of Ministry of Home Affairs under which the petitioner falls. This is evident from the different qualifications prescribed at induction level, and the promotional hierarchy for the Laboratory staff working under the two Ministries, namely, MoHFW and the Ministry of Home Affairs.

49. Therefore, this court considers it expedient to refrain itself from venturing into this domain of policy decision which pertains to the Executive.

50. The petitioner has also claimed that he is doing similar work and is similarly placed as the Lab Assistant, similar to those who are working under MoHFW, and he is also entitled to the same pay scales on the principle of “*Equal Pay for Equal Work.*” Here, it would be pertinent to state that while Article 14 of the Constitution of India forbids class legislation, it permits reasonable classification subject to the conditions that it is based on an intelligible differentia and that the differentia must have a rational in relation to the object sought to be achieved as has been observed in the case of Saurabh Chaudri vs. Union of India 11 (2003) 11 SCC 146. Thus, unless violation of principle of equal treatment to equally placed persons is clearly spelled out, no interference is warranted.

51. As already discussed above, the petitioner is employed with SSB. Learned counsel for the respondent has mentioned in his written argument that aside from salary, the employees get benefits and perks which are different from those being granted to employees working under other Ministries.

52. It would also be pertinent to refer to earlier Writ Petition filed in W.P. (C) No. 4147/2018 titled as Hemant Kumar & Ors vs. UOI & Ors. before this Court where the petitioner sought his initial rank to be that of Head Constable (Lab Assistant) with Grade Pay of Rs. 2400/- and also for providing promotional avenues as provided in other Paramilitary Forces such as Indo Tibetan Border Police, Central Reserve Police Force, Central Industrial Security Force, Border Security Force, National Security Guard, Assam Rifles and SSB holding Cadre Review. The said Writ Petition was decided by this Court *vide* Order dated 30.10.2019 with directions to the respondents to conduct a Cadre Review which shall address concerns of

the petitioners with respect to their promotional avenues.

53. **The respondents in their Written Submissions** have stated that the Cadre Review of Group 'B' and 'C' Para-Medical Cadre of Sashastra Seema Bal (SSB) has been completed after getting the approval of the Competent Authority i.e., Ministry of Home Affairs, *vide* Letter bearing No.1/30/SSB/Pers-V/CR-Para-Med/(CF-3491881)/Pers-III dated 31.03.2022.

54. In view of the Cadre Review which has been completed for Group 'B' and 'C' Para-Medical Cadre by Ministry of Home Affairs, which has received approval of Ministry of Finance, would be implemented and the same exercise is in process for the petitioner and similarly placed employees as well. Therefore, no further directions are required to be passed in this respect by this Court.

55. Much has been argued about the differentiation in the educational qualification at the entry level. The respondent No. 1 in impugned Order dated 10.08.2020 rejected the representation of the petitioner on the evasive ground that there was a difference in the professional qualification in the Medical Laboratory Science at the entry level which was *Class XII with Science and Diploma in Medical Laboratory Technology with one year experience with desirable qualification as Bachelor Degree in Medical Laboratory Science* while the qualification prescribed for the post of Constable (Lab Assistant) was *matriculation with Science with Professional Certificate in Laboratory Assistant Course* for this reason, no parity can be granted.

56. The petitioner himself has stated that the newly recommended entry level qualification has been made applicable prospectively. Since the

Cadre Review is already in progress, all such considerations would be addressed by the Ministry of Home Affairs, and no further directions are required to be given in this regard.

57. Therefore, for the reasons stated above, the present petition along with pending application, if any, is dismissed in the above terms.

(NEENA BANSAL KRISHNA)
JUDGE

(SURESH KUMAR KAIT)
JUDGE

MARCH 20, 2023
S.Sharma/PA

