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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 16.02.2024

+ W.P.(C) 2286/2024
CENTRAL COUNCIL FOR RESEARCH IN HOMOEOPATHY
THROUGH ITS DIRECTOR GENERAL & ORS. Petitioners
Through: Mr. Sunil Narula, Ms. Isha Thakur,
Advts.

versus

AMIT KUMAR SHARMA & ANR. Respondents
Through: Ms. Aanchal Anand, Adv.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

REKHA PALLI, J (ORAL)

CM APPL. 9517/2024 –Ex.

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 24.04.2023 passed by the learned Central Administrative Tribunal in O.A. No. 1213/2019. Vide the impugned order, the learned Tribunal has allowed the original application filed by the respondents and has consequently directed the petitioners to grant them appropriate pay scale alongwith the Grade Pay of Rs.4200/- as is being paid to employees of the Central Government holding identical posts.
4. In support of the petition, Mr. Sunil Narula, learned counsel for the



petitioners, submits that the impugned order is wholly perverse as the learned Tribunal has failed to appreciate that the petitioner/ Central Council for Research in Homeopathy(CCRH) is an Autonomous Organisation and therefore the service conditions of its employees is different from employees working under the Central Government. He submits that respondents, being employees of autonomous organization, which is governed by its own Memorandum of Association, Rules and By-laws, cannot seek the pay scales granted to similarly situated employees working under the Central Government. In support of his plea, he seeks to place reliance on a decision of the Apex Court in *The State of Maharashtra & Anr. vs. Bhagwan & Ors. in Civil Appeal Nos. 7682-7684 of 2021*.

5. He further submits that any decision to enhance the pay scale of the respondents to bring it at par with the Central Government employees can be taken by the petitioners after obtaining specific approval from the Ministry of Finance and Expenditure. As the respondents' representation in this regard, which was duly forwarded to the Ministry of Finance and Expenditure, already stands rejected, they cannot be granted parity of pay with the Central Government employees. He, therefore, prays that the writ petition be allowed and the impugned order be set aside.
6. On the other hand, Ms. Aanchal Anand, learned counsel for the respondents, who appears on advance notice, supports the impugned order and submits that once the By-laws of the petitioner itself provide that the payscales and allowances payable to employees of the CCRH would be same as that payable to similar employees of the Central Government, the petitioners cannot now be permitted to urge



that approval from the Ministry of Finance and Expenditure was required for stepping up the pay of the respondents to bring it at par with the Central Government employees. She further submits that respondents are being discriminated against as Doctors, Nurses and Pharmacists working in the petitioner organisation are receiving the same payscale as is being paid to employees of the Central Government. She, therefore, prays that the writ petition be dismissed.

7. Having considered the submissions of the learned counsel for the parties and perused the record, we may begin by noting hereinbelow the relevant extracts of the impugned order.

"6. On the face of it, the impugned order is a very terse and cryptic order which merely mentions that the issue was referred to the concerned ministry who have advised that the applicants cannot claim equity with the employees of Central Government Hospitals as they are employees of an autonomous organisation and not Central Govt. Factually, this statement is correct but at the same time the by-laws of the organisation are also unambiguous. Learned counsel has pointed out towards paras 44 and 47 of the said by-laws to substantiate the case of the applicants. These two by-laws read as under:

Scale of Pay of Posts

"44. The scales of pay and allowances applicable to the officers and establishments in the services of the Central Council shall be those prescribed by the Government of India for similar personnel employed under them.

47. In respect of matters not provided for in these regulations the rules as applicable to Central Government servants regarding the general conditions of service, pay, allowances T.A. and daily allowances, foreign service terms, deputation in India and abroad, etc. and orders and decisions issued in this regard by the Central Government from time to time shall apply mutatis mutandis to the employees of the Central Council. "

7. Although, leaned counsel for the respondents has prayed that in the light of the judgements quoted by the learned counsel, the matter be remanded to the respondents for consideration and deciding the claim of the applicants afresh, we are of the view that there is no ambiguity as far as the by-laws of the organisation are concerned. Therefore, if



we remand the matter back, we would merely be delaying the decision further as we note that this OA is now four years old.

8. In terms of the categorical provision in the bylaws, the respondents have no alternative except to extend the scale of pay and grade pay which is prescribed for similar personnel in Govt. of India. This principle has been conclusively affirmed by the judgment of the Hon'ble High Court of Madras.

9. Against the background of what has been detailed and discussed above, the present original application is allowed. The competent authority amongst the respondents is directed to forthwith grant the appropriate scale of pay along with grade pay scale of Rs. 4200/- as is applicable to the personnel of Government of India who are holding identical posts. The said scale of pay and grade pay shall be extended with effect from the date the recommendations of the Sixth Central Pay Commission were given effect to by the Government of India. As a consequence, the applicants shall also be entitled to the arrears of pay and allowances and other consequential benefits that may accrue. These directions shall be complied with within a period of 12 weeks from the date of receipt of a certified copy of this order."

8. From a bare perusal of the aforesaid findings of the learned Tribunal, we find that under the impugned order, the claim of the respondents has been allowed only on the basis of Clauses 44 and 47 of the petitioner's By-laws. These clauses have been duly reproduced in the impugned order and clearly provide that the pay scale and allowances of the employees of the petitioner organization would be at par with the payscale of the Central Government employees. When the By-laws of the petitioner organization in itself unambiguously provide that the payscale, allowances and other service conditions of its employees will be same as that of similarly placed Central Government employees, the petitioner cannot be permitted to urge that being an autonomous organization, it is not bound to extend the same pay scale to its employees. In our view, when the By-laws itself



clarify that the pay-scale and allowances payable to the Central Government employees are to be *mutatis mutandis* applied to the petitioner's employees, the petitioner cannot be permitted to urge that it must take prior approval from Ministry of Finance and Expenditure in this regard.

9. We may also note that there is no denial by the petitioner to the respondents' specific plea that all other categories of employees in the petitioner organization including Doctors, Pharmacists and Nurses are being paid at par with similarly placed Central Government employees. We, therefore, find no reason as to why the same treatment should not be met out to the respondents as well.
10. We have also considered the decision in ***Bhagwan & Ors. (supra)*** but find that the same is not applicable to the facts of the present case. In ***Bhagwan & Ors. (supra)***, the Apex Court rejected the claim of employees of an autonomous Organisation seeking similar pay scales as was being granted to employees of the Central Government by holding that matters regarding pay fixation are essentially policy decisions, involving financial implications and therefore, ought not to be interfered with by Courts. In the present case, the By-laws of the petitioner organization, by which it is bound, in itself provides that the payscale and allowances of its employees will be at par with the Central Government employees. It is thus evident that the learned Tribunal has not granted any equivalence to the employees of the petitioner with that of the Central Government but has merely directed the petitioner to abide by its By-laws, which it is an admitted position, continue to hold the field.

11. In the light of the aforesaid, we find no infirmity in the impugned



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order. The writ petition being meritless is, accordingly, dismissed.

12.As prayed for, the petitioner is granted eight weeks' time to implement the impugned order.

(REKHA PALLI)
JUDGE

(RAJNISH BHATNAGAR)
JUDGE

FEBRUARY 16, 2024
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