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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 14872/2024**

AKASH SOLANKI & ANR.

.....Petitioners

Through: Mr. C.M. Jha, Advocate.

versus

GNCTD & ANR.

.....Respondents

Through: Mrs. Avnish Ahlawat, Standing Counsel, GNCTD with Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates for Respondent No.1.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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23.10.2024

C.M. APPL. 62426/2024

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 14872/2024 & C.M. APPL. 62425/2024

3. This writ petition has been preferred on behalf of the Petitioners under Article 226 of the Constitution of India seeking equal pay for equal work at par with Technicians Grade-II, appointed on a regular basis with Respondent No. 2/Rajiv Gandhi Super Specialty Hospital.
4. As per the averments in the writ petition, Petitioners were appointed as Technicians with Respondent No.2 and have been working on contractual basis for over 9 years. The appointments are stated to be against sanctioned posts and the work is perennial in nature. It is averred that *albeit* in 2015,



appointments of the Petitioners were through an outsourced agency, Petitioners have been doing the same work as a regularly appointed Technician Grade-II with Respondent No.2 and are shouldering the same onerous responsibilities. Despite this Petitioners are being paid salaries fixed at minimum pay of a skilled daily wager i.e. Rs.20,357/- per month. It is argued on behalf of the Petitioners that they are highly skilled workers possessing all requisite qualifications for regular appointment against sanctioned posts of Technician Grade-II and yet are being deprived of regular pay scale of Technician Grade-II, i.e Rs.5200-20200/- with Grade Pay of Rs.2800/- and/or the pay scale of Technician Grade-I, which is Rs.9300-34800/- with Grade Pay of Rs.4200/-.

5. It is further argued by the learned counsel that Respondent No.2 has already granted benefit of 'equal pay for equal work' to Staff Nurses and Nursing Aids working at Respondent No.2 on outsourced basis through the same agency, ICSIL. To demonstrate, it is explained that Nursing Staff appointed on contract basis is being paid total monthly emoluments of Rs.52,533/- which is equal to the pay and emoluments of the regular Nursing Staff in the pay scale of Rs.9300-34800/- with Grade Pay of Rs.4200/-. Despite various representations, Petitioners' grievances have not been redressed and they continue to be paid remuneration of a skilled daily wager. Without prejudice to the claim for equal pay, learned counsel submits that Petitioners cannot be denied minimum of the regular pay scale of Technician Grade II and relies on the judgment of the Supreme Court in ***State of Punjab and Others v. Jagjit Singh and Others, (2017) 1 SCC 148***, wherein the Supreme Court held that all temporary employees (daily wage employees, *ad hoc* appointees, casual employees, contractual employees and



the like) would be entitled to draw wages at the minimum of the pay scale, i.e. at the lowest grade, in the regular pay scale, extended to regular employees holding the same post.

6. Issue notice.

7. Ms. Laavanya Kaushik, learned counsel appearing on behalf of Mrs. Avnish Ahlawat accepts notice for Respondent No.1.

8. Petitioners in the present petition claim pay and emoluments at par with Technicians Grade-II/I, working with Respondent No.2 on regular basis against sanctioned posts. It is not in dispute that Petitioners are contractual employees but it is equally undisputed that they have been working over 09 years. Petitioners claim that they are performing the same duties as regular Technicians and shoulder the same onerous responsibilities. Pay and allowances are claimed at par with the regular Technicians on the principle of 'equal pay for equal work' and in support, it is averred that the Nurses and Nursing Aids appointed on contract basis have been given pay at par with their regularly appointed counterparts. Representations made by the Petitioners have not been disposed of till date. Considering that the issue raised in the present writ petitions deals with equal pay for equal work and would require examination of several factors such as nature of job, duties, qualifications, etc. in my view, at this stage, it would be appropriate if this exercise is carried out by Respondent No.2 and a considered decision is taken in this regard.

9. Accordingly, without entering into the merits of the case, this writ petition is disposed of with a direction to Respondent No.2 to treat this writ petition as a representation and take a decision within eight weeks from the date of receipt of this order on the issue of equal pay for equal work flagged



by the Petitioners and without prejudice and in the alternative *qua* the claim for fixing their pay in the minimum of the pay scale of regular employees appointed to the post of Technician II/I. The decision shall be taken in light of the benefit granted to the Nursing cadre as also the judgment of the Supreme Court in ***Jagjit Singh (supra)***. Needless to state, in case Respondent No.2 decides in favour of the Petitioners, their cases will be processed for pay fixation and release of the arrears as expeditiously as possible but if the decision is otherwise, a reasoned and speaking order shall be passed, which shall be communicated to the Petitioners within a period of one week from the date of the decision and Petitioners will be at liberty to take recourse to legal remedies, if so advised.

10. Pending application also stands disposed of.

JYOTI SINGH, J

OCTOBER 23, 2024/shivam