



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

118

CWP-1738-2025

Date of decision: 23.01.2025

Rajwinder Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. PPS Brar, Advocate for the petitioner.

Mr. Sehajbir Singh Aulakh, AAG, Punjab.

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present petition is for directing the respondents to grant the same benefits to the petitioner as has been granted in **Harmandeep Kaur and others vs. State of Punjab and others**, CWP-19620-2014, decided on 13.11.2018, Annexure P-2, wherein benefit has been granted to similarly situated employees, the relevant paras whereof read thus:-

“The grouse of the petitioners is that they were appointed as Staff Nurse and Counsellor during the years 2012 and 2013 on contract basis, in pursuance of the advertisements published in the newspapers under the National Programme for Prevention and Control of Cancer, Diabetes, Cardiovascular disease & Stroke (NPCDCS), on consolidated remuneration of `18,000/- for Staff Nurse and `15,000/- for Counsellor). However, vide impugned order Annexure P-7, the respondent No.3 has issued direction to respondent Nos.4 and 5 to pay salary at `12,000/- per month to Staff Nurse as well as Counsellor, without assigning any reason.

On the other hand, learned State counsel submits that the NPCDS programme is being run with the help of 75% grant sanctioned by the Government of India and the remaining 25% grant comes from the State Government. The performance of the programme was reviewed and the same was found to be inadequate. Therefore, to motivate the Staff Nurses and Counselors to perform better, the pay of Staff Nurse and Counsellor was settled at Rs.12,000/- as fixed monthly remuneration with Rs.6,000/- and Rs.3,000/- as variable to be paid as a performance based incentive. Learned counsel further refers to (Annexures P-5 and P-6), the appointment letters issued to petitioners to contend that the terms and conditions including salary for this contractual assignment were liable to



change as per the guidelines/directions issued by the authorities from time to time.

Heard.

It is not in dispute that the petitioners were appointed on contract basis as Staff Nurse and Counsellor with fixed monthly remuneration of Rs.18,000/- and Rs.15,000/-, respectively. The re-fixation of remuneration from fixed to variable one has been done solitary on the ground of inadequate performance of NPCDS Programme. However, there is no record to substantiate that the performance of the programme has been adversely affected on account of the inefficiency etc. of the petitioners alone. Moreover, the remuneration of Staff Nurse and Counsellor have alone been decreased, whereas, the rest of the staff members are getting the salary as earlier. Therefore, the action of the respondents is arbitrary and discriminatory.

It has further emerged that this arrangement of including variable component in the remuneration of the petitioners has been done with a view to motivate them to perform better. The stand of the respondents appears to be highly misconceived inasmuch as any decrease in the remuneration already being granted to the petitioners, by no stretch of imagination, can be said to be a motivating factor, rather the same would demotivate and demoralise the petitioners.

In view of the above discussion, this Court feels that order (Annexure P-7) is unjust and deserves to be set aside. Ordered accordingly. The arrears, if any, be paid to the petitioners within a period of six weeks from the date of receipt of a certified copy of this judgment.

Allowed in the above terms.”

2. Against the aforesaid judgment, LPA-60-2020 was filed, which came to be dismissed on 12.11.2024, the relevant paras whereof read thus:-

“7. We have heard learned counsel for parties and have gone through the file with their able assistance.

8. Appointment of respondents (writ petitioners) on the post of Staff Nurse and Counsellor pursuant to advertisement(s) issued by respondents is a matter of record. It is further an admitted fact that they were initially appointed at a consolidated remuneration of Rs.18,000/- to Staff Nurse and Rs.15,000/- to Counsellor. Vide order dated 25.10.2013, it was directed that for the month of September, Staff Nurses and Counsellors would be given Rs.12,000/- with pay of all other categories to remain the same. Such arrangement was continued. Justification extended by respondents, as detailed in the foregoing paras, is unacceptable and totally unjustified. Reliance on clause 12 of the appointment letter is of no avail to the appellants as it is provided therein that terms and conditions and salary are liable to change as per guidelines/directions issued by State Mission Director/State Health Society/State Government/Government of India from time to time and will be applicable accordingly. By no stretch of imagination, can it be held that there can be



variation in the remuneration and particularly a reduction in an arbitrary fashion without any basis whatsoever.

9. Learned counsel for appellant is unable to point out any material on record to indicate that performance of respondent/writ petitioners in particular was found to be inadequate or not upto the mark. An omnibus statement that on inspection, performance of the program was found to be inadequate, cannot be the foundation of action taken by the authorities. Such action is unjustified, arbitrary and unsustainable, hence, rightly set aside by learned Single Bench.

10. Learned counsel for appellants is unable to point out any infirmity or irregularity in impugned order dated 13.11.2018 which calls for interference.

11. It is brought to our notice at this stage, that in the absence of any interim order in this appeal, order dated 13.11.2018 has been complied with and all writ petitioners are continuing to serve under the NPCDCS program till date.

12. There is a delay of 345 days in filing of the appeal. Delay is attributed to the movement of the file between Department of Health and Family Welfare of the State and Director, National Health Mission besides the ground of financial implications.

13. In the given facts and circumstances, we do not find reasonable or sufficient cause for condonation of delay in filing of the appeal which is accordingly, dismissed on merits and being time barred as well.”

3. Learned State counsel despite his best efforts, has not been able to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law, though an objection has been raised that the present petition has been filed belatedly, which can be duly met in terms of the afore-referred judgment by restricting the arrears to 38 months, which learned counsel for the petitioner, on instructions, accepts.

4. The present petition is disposed of in terms of **Harmandeep Kaur** (supra), however the arrears shall be confined to 38 months prior to the filing of the writ petition.

(AMAN CHAUDHARY)
JUDGE

23.01.2025
Hemant

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