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

% *Date of Decision: 18th March, 2025*

+ W.P.(C) 13592/2018 and CM APPL. 52967/2018

RAJESH AND ORS.Petitioners

Through: Mr. M.K. Bhardwaj, Advocate.

versus

GOVT. OF NCT OF DELHI AND ORS.Respondents

Through: Mr. Yeeshu Jain, Additional Standing
Counsel with Ms. Jyoti Tyagi, Advocate for
Respondents/GNCTD.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. This writ petition is preferred on behalf of the Petitioners under Articles 226/227 of Constitution of India seeking a writ of mandamus to the Respondents to pay salaries to the Petitioners by following the same criteria as adopted for other contractual employees serving along with the Petitioners on the posts of Staff Nurse, ANM, Pharmacist, Lab Technician, Lab Assistant etc. in Delhi State Health Mission ('DSHM'). Impugned order dated 10.10.2018 is assailed to the extent revised salaries at par with contractual employees serving under Government of National Capital Territory of Delhi ('GNCTD') have been granted only to paramedical contractual employees. No other relief although sought, is pressed in the present petition by the Petitioners.



2. Facts to the extent necessary are that in 1998, GNCTD acquired services of Computer Data Entry Operators ('CDEO') for execution of various health schemes started through various societies. Initially, the societies were known as Delhi Tapedic Unmulan Samiti etc. Open advertisements were issued from eligible candidates having knowledge of computer and possessing computer application diploma. Petitioners applied and successfully cleared the skill test and interview conducted by the Selection Committee and joined between 1999 to 2012. Having lost the battle for regularisation in this Court in 2015, Petitioners raised demands for being paid salaries on the minimum of pay scales attached to the regular posts.

3. It is averred that GNCTD took a decision on 16.02.2015 to formulate a policy of existing contractual employees and till the decision status of contractual employees was protected. Finally, a decision was taken and minimum pay scales were paid to contractual employees but benefits were denied to the Petitioners and some other contractual employees serving under the DSHM/Delhi State Health Society. Finally, Respondents issued order dated 10.10.2018 for payment of salaries to contractual employees corresponding to those under the Delhi Government but Petitioners were excluded without any justification on the ground that such benefit cannot be given to CDEOs. Representations failed to elicit any positive response and Petitioners approached this Court.

4. Mr. M.K. Bhardwaj, learned counsel for the Petitioners submits that the Petitioners are contractually employed CDEOs with the Department of Health and Family Welfare under the GNCTD and seek the relief of fixation of their pay at the minimum of pay scale as granted to regular Data Entry



Operators ('DEOs') in the GNCTD. It is submitted that Petitioners were appointed through a rigorous selection process which included skill test and interview by the Selection Committee and applications were invited through an open advertisement process. The process was thus akin to a regular selection process and Petitioners were fully qualified and eligible for appointments. Petitioners are performing the same duties as paramedical contractual staff in DSHM and cannot be denied the benefit of fixation of salaries on the minimum of pay scales of regular employees as granted to the other staff employed with the Department of Health and Family Welfare under GNCTD as this would violate Articles 14 and 16 of the Constitution of India. It is further submitted that the case of the Petitioners is squarely covered by the judgment of the Supreme Court in *State of Punjab and Others v. Jagjit Singh and Others*, (2017) 1 SCC 148. It is also urged that in light of the judgment of this Court in *Raj Kumar Saini & Ors. v. Government of NCT of Delhi & Ors.*, 2024:DHC:7738, salary fixation as sought cannot be denied to the Petitioners as the Petitioners therein were Pharmacists working in the same department and appointed under the same advertisement.

5. Mr. Yeeshu Jain, learned ASC does not dispute that in *Jagjit Singh (supra)*, the Supreme Court held that where duties, responsibilities discharged by temporary employees (daily wage employees, *ad-hoc* appointees, casual workers, contractual employees and the like) are similar to those of regular employees and they possess the requisite qualifications, they will be entitled to claim wages on par with minimum of the pay scale of regularly engaged employees holding the same posts, however, he submitted that the judgement cannot help the Petitioners as there are no regular posts



of CDEOs in the concerned department.

6. Heard learned counsels for the parties and examined their contentions.

7. There is no dispute by the Respondents that Petitioners were appointed as CDEOs through open advertisement and after following a regular process of selection akin to process followed for regular appointments. It is equally undisputed that Petitioners have worked with DSHM for several years and their work and conduct has been satisfactory. Petitioners do not press for regularisation and/or any other relief and only claim fixation of their salaries at minimum of the pay scale attached to a regular post of DEO. In *Jagjit Singh (supra)*, the Supreme Court held as follows:

“5. The issue which arises for our consideration is : whether temporarily engaged employees (daily-wage employees, ad hoc appointees, employees appointed on casual basis, contractual employees and the like), are entitled to minimum of the regular pay scale, along with dearness allowance (as revised from time to time) on account of their performing the same duties which are discharged by those engaged on regular basis, against sanctioned posts? The Full Bench [Avtar Singh v. State of Punjab, 2011 SCC OnLine P&H 15326 : ILR (2013) 1 P&H 566] of the High Court, while adjudicating upon the above controversy had concluded, that such like temporary employees were not entitled to the minimum of the regular pay scale, merely for reason, that the activities carried on by daily wagers and the regular employees were similar. However, it carved out two exceptions, and extended the minimum of the regular pay to such employees. The exceptions recorded by the Full Bench of the High Court in the impugned judgment are extracted hereunder : (Avtar Singh case [Avtar Singh v. State of Punjab, 2011 SCC OnLine P&H 15326 : ILR (2013) 1 P&H 566] , SCC OnLine P&H para 37)

“(1) A daily wager, ad hoc or contractual appointee against the regular sanctioned posts, if appointed after undergoing a selection process based upon fairness and equality of opportunity to all other eligible candidates, shall be entitled to minimum of the regular pay scale from the date of engagement.

(2) But if daily wagers, ad hoc or contractual appointees are not appointed against regular sanctioned posts and their services are



availed continuously, with notional breaks, by the State Government or its instrumentalities for a sufficient long period i.e. for 10 years, such daily wagers, ad hoc or contractual appointees shall be entitled to minimum of the regular pay scale without any allowances on the assumption that work of perennial nature is available and having worked for such long period of time, an equitable right is created in such category of persons. Their claim for regularisation, if any, may have to be considered separately in terms of legally permissible scheme.

(3) In the event, a claim is made for minimum pay scale after more than three years and two months of completion of 10 years of continuous working, a daily wager, ad hoc or contractual employee shall be entitled to arrears for a period of three years and two months.”

6. The issue which has arisen for consideration in the present set of appeals, necessitates a bird's-eye view on the legal position declared by this Court, on the underlying ingredients, which govern the principle of “equal pay for equal work”. It is also necessary for resolving the controversy to determine the manner in which this Court has extended the benefit of “minimum of the regular pay scale” along with dearness allowance, as revised from time to time, to temporary employees (engaged on daily-wage basis, as ad hoc appointees, as employees engaged on casual basis, as contract appointees, and the like). For the aforesaid purpose, we shall, examine the above issue, in two stages. We shall first examine situations where the principle of “equal pay for equal work” has been extended to employees engaged on regular basis. And thereafter, how the same has been applied with reference to different categories of temporary employees.

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60. Having traversed the legal parameters with reference to the application of the principle of “equal pay for equal work”, in relation to temporary employees (daily-wage employees, ad hoc appointees, employees appointed on casual basis, contractual employees and the like), the sole factor that requires our determination is, whether the employees concerned (before this Court), were rendering similar duties and responsibilities as were being discharged by regular employees holding the same/corresponding posts. This exercise would require the application of the parameters of the principle of “equal pay for equal work” summarised by us in para 42 above. However, insofar as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals were appointed against posts which were



also available in the regular cadre/establishment. It was also accepted that during the course of their employment, the temporary employees concerned were being randomly deputed to discharge duties and responsibilities which at some point in time were assigned to regular employees. Likewise, regular employees holding substantive posts were also posted to discharge the same work which was assigned to temporary employees from time to time. There is, therefore, no room for any doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals were the same as were being discharged by regular employees. It is not the case of the appellants, that the respondent employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State that any of the temporary employees would not be entitled to pay parity on any of the principles summarised by us in para 42 hereinabove. There can be no doubt, that the principle of “equal pay for equal work” would be applicable to all the temporary employees concerned, so as to vest in them the right to claim wages on a par with the minimum of the pay scale of regularly engaged government employees holding the same post.

61. In view of the position expressed by us in the foregoing paragraph, we have no hesitation in holding that all the temporary employees concerned, in the present bunch of cases would be entitled to draw wages at the minimum of the pay scale (at the lowest grade, in the regular pay scale), extended to regular employees holding the same post.”

8. As rightly flagged by Mr. Bhardwaj, following the aforesaid judgment, this Court in **Raj Kumar Saini (supra)** directed GNCTD to refix the salaries of the Petitioners therein at the minimum of the pay scales extended to the regular employees working on the same posts in the Directorate of Health, GNCTD. Learned ASC for the Respondents raises a singular defence to contest the petition, i.e. there are no regular posts of CDEOs in DSHM. To my mind, this defence is wholly misconceived in light of the fact that posts of DEOs/CDEOs exist in several other organisations under the Department of Health and Family Welfare, GNCTD and illustratively Petitioners have referred to Institute of Human Behaviour and Allied Sciences, Dr. B.R. Sur Homeopathic Medical College, Hospital



& Research Centre as also Transport Department, Delhi State Civil Supplies Corporation Limited, Department of Information Technology, etc. and therefore, it is not difficult to see that minimum of the pay scale of a regular DEO can be worked out by the Respondents to refix the salaries of the Petitioners. Having granted the benefit of minimum pay scale to Paramedics, Pharmacists, etc. under the same department and more particularly in light of the judgment of the Supreme Court, Respondents cannot be allowed to plead that similar benefit will be denied to the Petitioners. At the cost of repetition, it cannot be overlooked that Petitioners were selected through open advertisement; underwent rigorous process of selection through a skill test and interview; have worked uninterruptedly for varying periods starting from 1999/2012; are discharging similar duties as DEOs in other departments/organisations under Directorate of Health, GNCTD.

9. In taking the above view, I am also fortified by the judgment of the Punjab and Haryana High Court in case of *Pankaj v. State of Haryana, 2020:PHHC:037241*, where a similar prayer in case of pharmacists appointed on contractual basis in Urban Health Centre, was allowed on the basis of the observations of the Supreme Court in *Jagjit Singh (supra)*. Co-ordinate Bench of this Court granted similar relief in *Govt. of NCT of Delhi Through Directorate of Family Welfare v. Smt. Nisha, W.P. (C) No. 15950/2023*, decided on 12.12.2023, which judgement was upheld by the Division Bench in *Govt. NCT of Delhi through Directorate of Family Welfare v. Nisha and Others, 2024 SCC OnLine Del 5149*.

10. For all the aforesaid reasons, this writ petition is allowed directing the Respondents to refix the salaries of the Petitioners at the minimum of the pay scales extended to regular DEOs/CDEOs working in different



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departments/organisations under Directorate of Health, GNCTD. Petitioners are also held entitled to arrears on re-fixation. The entire exercise will be completed within two months from today.

11. Pending application stands disposed of.

MARCH 18, 2025

B.S. Rohella

JYOTI SINGH, J