

A MULTIPURPOSE HEALTH WORKERS ASSOCIATION & ORS.

v.

STATE OF HARYANA AND ORS.

MAY 7, 1996

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[G.N. RAY AND B.L. HANSARIA, JJ.]

Service Law :

C *Equal pay for equal work—Multipurpose Health Workers—Higher pay scale of Rs. 1200-2040—Granted to holders of other technical posts w.e.f. 1-5-1990—Whereas multipurpose health workers granted higher pay scale w.e.f. 1.1.1994—Validity of—In absence of information about nature and quality of duties of other holders of technical posts, equalisation of pay could not be asked for.*

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Higher pay scale—Date of commencement of—Director General of Health Service recommended grant of higher pay scale of Rs. 1200-2040 to Multipurpose Health Workers w.e.f. 1.5.1990—But Government gave higher pay scale w.e.f. 1.1.1994—Held : recommendation of Director General of Health Services had only persuasive value and not binding on the Govern-

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ment—Decision of Government not arbitrary but rational.

F *Higher pay scale—grant of—To Multipurpose Health Workers w.e.f. 1.5.1990—By virtue of notification dated 26.7.1991—Held : The Multipurpose Health Workers did not receive the training contemplated by the notification—Hence, not entitled to higher pay scale w.e.f. 1.5.1990.*

G **The appellant-association's members were Multipurpose Health Workers. The appellants' claim for higher pay scale of Rs. 1200-2040 with effect from 1.5.1990 was rejected by the State Government. However, the said higher pay scale was made available with effect from 1.1.1994. The appellants filed a writ petition in the High Court claiming the said higher pay scale with effect from 1.5.1990 which was dismissed. Being aggrieved, the appellants preferred the present appeal. On behalf of the appellants it was contended that the notification dated 26.7.1991 of the State Government raising the pay scales of "some technical posts" to Rs. 1200-2040**

H **itself made it effective from 1.5.1990; that since other holders of technical**

posts were given the aforesaid pay scale with effect from 1.5.1990; there existed no cogent reason to deny the same to the appellants who discharged the same function as those holders of technical posts; and that the State's Director General of Health Services had taken the view that the training imparted by the Department to the appellants was equivalent to the one received in the ITIs.

On behalf of the respondents it was contended that the notification had no application to the appellants since they did not possess the qualification of "ITI Certificate/Diploma from Polytechnic" prescribed by the State Government notification.

Dismissing the appeal, this Court

HELD : 1.1. The Multipurpose Health Workers do not possess ITI Certificate/Diploma from any Polytechnic and had not received the training of which the notification dated 26.7.1991 speaks of. They are, therefore, not entitled to the revised pay scale with effect from 1.5.1990 by the force of the notification. [486-F, H, 487-C]

1.2. Though it is correct that the Director General of Health Services strongly recommended the case of the appellants his view only has a persuasive value and is not binding on the Government. Moreover, in the absence of information about the nature and quality of duties of other holders of technical posts who were given the higher pay scale from 1.5.1990 it is not possible to ask for equalisation of the pay scale of the appellants with the concerned technical post holders. [487-G-H]

1.3. The decision by the Government to fix the revised pay scale of the appellants from 1.5.1990 cannot be said to be in any way arbitrary; it is indeed rational. [488-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7950 of 1996.

From the Judgment and Order dated 7.8.91 of the Punjab & Haryana High Court in C.W.P. No. 2572 of 1991.

Pradeep Gupta and K.K. Mohan for the Appellants.

A Ms. Suruchi Aggarwal for Ms. Indu Malhotra, B.B. Sawhney, Ms. Indira Sawhney and Deepak Dewan, for the Respondents.

The Judgment of the Court was delivered by

HANSARIA, J. Special leave granted.

B 2. The appellant - association's members are Multipurpose Health Workers of Haryana. The only question we have been called upon to decide is the whether the higher pay scale of Rs. 1200-2040 to these workers to be made available to them with effect from 1.5.1990, instead of 1.1.1994?

C 3. The appellants have laid their claim for the earlier date on two grounds: (1) the notification dated 26.7.1991 of the State Government raising the pay scales of "some technical posts" to Rs. 1200-2040 itself demanded the higher pay scale from 1.5.1990, as the same is the effective date of the notification; and (2) other holders of technical posts having been given the aforesaid pay scale with effect from 1.5.1990, there exists no cogent reason to deny same to the Multipurpose Health Workers who discharge the same function as those to whom the higher pay scale was given from 1.5.1990.

E 4. The case of State on the other hand, is that the aforesaid notification in terms has no application to the Multipurpose Health Workers because the qualification "prescribed" by the notification is "ITI Certificate/Diploma from Polytechnic". There is no dispute that the workers at hand do not possess ITI Certificates-Diploma from any Polytechnic. The case of the appellants, however, is that the certificate course of the ITI is of one year's duration and the minimum educational qualification is Matriculation, whereas the training period of the Multipurpose Health Workers is of 1-1/2 year's duration or 1 year depending upon the sex of the incumbents, and their minimum educational qualification being also matriculation, the training imparted by the department to them has to be taken as equal to that one received in the ITIs. The State's Director General of Health Services has taken this view as would appear from his letter No. 31/1 Spl. MCH-93/5791 dated 4.11.1993. One thing, however, is apparent that the concerned workers had not received the training of which H the notification dated 26.7.1991 speaks of.

5. The State counsel brought to our notice the decision of the Punjab and Haryana High Court taking the view that the nature, content and quality of the course prescribed for the job of Multipurpose Health Worker is different from the course of an ITI/Polytechnic trained persons. Being of this view, the writ petition filed by the appellants themselves before the High Court claiming equality with others technical workers was dismissed, which came to be accepted, as this Court had not been approached making any grievance regarding the view taken by High Court. .

6. In the aforesaid premises, we entertain no doubt that the Multipurpose Health Workers are not entitled to the revised pay scale with effect from 1.5.1990 by the force of the notification.

7. In so far as the second ground is concerned, we have again been referred by the learned counsel for the appellants to the view of the Director General of Health Services as expressed in the aforesaid letter. Though it is correct that the Director General of Health Services strongly recommended the case of the appellants in his aforesaid communication, the State Government did not accept the same and decided to revise the pay scale with effect from 1.1.1994, as would appear from the communication of the Financial Commissioner and Secretary to the Government, Finance Department, dated 21.3.1994 addressed to the Director General of Health Services by referring to his letter of 4.11.1993. As the decision was taken by the Government on 11th March , 1994, the fixing of the date as 1.1.1994 to give effect to the revised pay scale cannot be said to be in any way arbitrary; it is indeed rational.

8. We do not, however, propose to decide the appeal merely on the basis of the decision of the Government to make available the higher pay scale from 1.1.1994, though the same has to be kept in mind, because the Director Generals' view has only persuasive value, it is not binding on the Government. What is more important is that though the Director General mentioned about various work done by the Health Workers-immunisation, making of blood pads, engagement in family welfare programme and attending to minor ailment - we do not know about the nature and quality of duties of other holders of technical posts who were given the higher pay scale from 1.5.1990. Without this information being available to us, we cannot ask for equalisation of the pay of the Health Workers with the

A concerned technical post holders.

9. Thus, there is no cogent reason to accept the contention of the appellants to make the revised pay scale effective from 1.5.1990. The appeal is, therefore, dismissed. In the facts and circumstances of the case, we leave the parties to bear their own costs throughout.

V.S.S.

Appeal dismissed.