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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00675/2014

Date of Decision : 5.11.2015
Reserved on : 30.10.2015

**CORAM: HON'BLE MR. JUSTICE L.N. MITTAL, JUDICIAL MEMBER
HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER**

1. Kashinath Yadav, son of Sh. S.S.Yadav, aged 42 years, resident of House No.1703/1, Sector 39-B, Chandigarh.
2. Jai Gopal Sharma, son of Sh. Bal Krishan Sharma, resident of House No.1616-B, Sector 32, Chandigarh.
3. Parveen Malik, s/o Sh. Bahadurshah Malik, resident of House No.2219, Sector 44-C, Chandigarh.
4. Sujeet, s/o Sh. Raj Mani Sinha, resident of 3141-B, Sector 48/D, Chandigarh.
5. Romi Masih, s/o Sh. Bashir Masih, resident of 118, Intern Hostel, Government Medical College and Hospital, Sector 32, Chandigarh.

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Applicants

Versus

1. Union of India, through its Secretary, Ministry of Health and Family Welfare, New Delhi.
2. Chandigarh Administration, Department of Medical Education and Research, Mini Secretariat, Sector 9, Chandigarh through its Secretary.
3. Government Medical College & Hospital, Sector 32, Chandigarh through its Director Principal.
4. Director Principal, Government Medical College & Hospital, Sector 32, Chandigarh.

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Respondents

Present: Mr. Ankit Goel, proxy for Sh. Sourabh Goel, counsel for the applicants
None for respondent no.1
Mr. Puneeta Sethi, counsel for respondents no.2 to 4.

ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

"8 (i) Issuance of appropriate order for quashing of the recruitment rules for Group 'C' posts in the respondent no.3-GMCH-32, notified by respondent no.2 vide notification dated 06.06.2002 (Annexure P-25)



to the extent they have placed the post of JRT in the pay scales of Rs.4020-6200 instead of Rs.4550-7200 and post of SRT in the pay scales of Rs.5000-8100 instead of Rs.5480-8925.

- (ii) Issuance of appropriate order for quashing of the impugned order dated 02.12.2013 (Annexure A-24), vide which respondent no.1 has wrongly, arbitrarily and in a mechanical manner, rejected the proposal sent by respondent no.3-GMCH-32 in consultation with respondent no.2 for change in nomenclature of the post of Junior Radiographic Technician/Senior Radiographic Technician to Radiographer / Senior Radiographer respectively along with various other posts, thereby depriving the applicants of the pay parity with the corresponding post of Radiographer / Sr. Radiographer.
- (iii) To direct respondents no.1 & 2 to change the nomenclature for the post of Junior Radiographic Technician / Senior Radiographic Technician to Radiographer / Sr. Radiographer, respectively and to remove the pay anomaly arisen due to difference in nomenclature.
- (iv) To direct the respondents to give the benefit of pay scale of Rs.4550-7220 to the applicants for the period they worked as JRT and the pay scale of Rs.5480-8925 and benefit of other subsequent pay revisions for the corresponding post of SRT."

2. Averment has been made in the OA that the applicants were appointed as Junior Radiographic Technician (JRT) in General Central Services Group 'C'(Non-Gazetted, Non-Ministerial) in the respondent no.3-GMCH-32 in 1994. In 1992, prior to the appointment of the applicants, respondent no.2 vide notification dated 13.01.1992 notified Conditions of Service of Union Territory of Chandigarh Employees Rules, 1992. As per these Rules, the conditions of service of persons to the Central Civil Services and posts in Group A, B, C and D under administrative control of the Administrator of UT, Chandigarh shall be the same as the conditions of services of persons appointed to the corresponding posts in Punjab Civil Services and shall be governed by the same rules and orders as are for the time being applicable to the later category of persons. Since respondent no.2 adopted the service rules and pay scales for the posts as existing for the similar posts in the State of Punjab, and since post equivalent to the post of Junior Radiographic Technician existing in the State of Punjab was Radiographer, therefore, the initial pay scale for the post of Junior Radiographic Technician was fixed as Rs.1200-2100. The posts of JRT and various other posts were also created in Group 'C' for other Departments of GMCH-32. The

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pre-revised pay scale for the post of Senior Radiographic Technician (SRT) and Senior Radiographer was the same i.e. Rs.1410-2480. Applicant no.1 and other similarly situated Junior Radiographic Technicians, as they were then, made several representations to respondent no.3-GMCH-32, and requested for parity in pay scale as per the Punjab Pattern, since as per the Punjab Pattern, the corresponding pay scale for the post of Radiographer was Rs.4550-7220 and the pay scale corresponding to the post of Senior Radiographer was Rs.5480-8925 (Annexure A-2). This was followed by many such representations but with no result. Hence, the applicants filed OA No.176/2009.

3. Meanwhile in pursuance to the representations made by the applicants, the Administrative Department of respondent no.2 prepared Agenda to be placed before the Anomaly Committee. In the Agenda the posts of which the criteria was proposed to be changed were kept in 3 categories. First category, was the one in which only nomenclature was to be changed on Punjab Pattern and those posts were carrying same pay scale and no financial burden was contemplated. Second category, was the one in which the nomenclature of the posts was to be changed on Punjab Pattern, and in State of Punjab these posts were carrying higher pay scale, therefore, financial burden was involved. And, thirdly such posts in which although no nomenclature and scale of pay has been proposed to be changed but presently the pay scale is being given higher than that of Punjab State (Annexure A-11). The claim of the applicants was in the second category. The meeting of the Anomaly Committee was held on 27.07.2009 and case put up for removal of anomalies of various categories of post of the GMCH-32. In the meeting the Committee agreed to change the nomenclature of the posts on the Punjab Pattern where the pay scale was same and no financial implication was involved. For the post of JRT / SRT and other posts where there was difference in the pay scale as existing in the State of Punjab and GMCH-32, the Anomaly Committee observed that since the same would amount to

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upgradation of post, therefore, the matter be taken up with the Govt. of India (Annexure A-12).

4. OA No.176/2009 was disposed of on 30.03.2010 with directions to respondent no.3-GMCH-32 to send the matter to Govt. of India for removal of the anomaly if not already sent and six months time was granted to do the needful (Annexure A-18). However, the Ministry of Health and Family Welfare, Govt. of India, rejected the claim of the applicants vide letter no.V.24011/5/2011-ME-II, dated 02/05.12.2013 (Annexure A-24) as follows:-

"The proposal has been examined in this Ministry and in view of different educational qualifications, experience, pay scales and mode of recruitment applicable to the posts in GMCH & in Govt. of Punjab, the proposal could not be acceded to."

Hence this OA.

5. In the grounds for relief, it has been stated as follows:-

- i) Respondent no.3-GMCH-32 was established in year 1994 and respondent no.2 vide notification dated 13.01.1992 (Annexure A-1), notified the Conditions of Service of Union Territory of Chandigarh Employees Rules, 1992. As per the rules, the conditions of service of persons to the Central Civil Services and posts in Group A, B, C and D under administrative control of the Administrator of UT, Chandigarh shall be the same as the conditions of services of persons appointed to the corresponding posts in Punjab Civil Services and shall be governed by the same rules and orders as are for the time being applicable to the later category of persons.

Clause 2 of the notification dated 13.01.1992 is reproduced hereunder:-

"2. The conditions of service of persons appointed to the Central Civil Services and posts in Groups A, B, C and D under the administrative control of the Administrator of Union Territory of Chandigarh shall subject to any other provision made by the President in this behalf, be the same as the conditions of service of persons appointed to corresponding posts in Punjab Civil Services and shall be governed by the same rules and orders as are for the time being applicable to the latter category of persons."

The various posts in respondent no.3 Institute were created on the Punjab Pattern and as per the notification dated 13.01.1992 (Annexure A-1), the service conditions etc are governed by the Punjab Rules. The revision of pay is also on the basis of Punjab Pay Commission.

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Therefore, posts, such as that of the applicants, which were created after adopting of the Punjab Rules, vide notification (Annexure A-1), the nomenclature for those posts in Group ' C' ought to have been the same as that existing for corresponding post in State of Punjab and secondly the pay scales should also have been the same on the Punjab Pattern. In case of applicants who were appointed to the post of Junior Radiographic Technician, the action of respondent no.3-GMCH in not adopting the same nomenclature as for the State of Punjab has resulted in pay anomaly.

- ii) In General Hospital, Sector 16, Chandigarh under the control of respondent no.2, the posts existing in the Department of Radiodiagnosis are of Radiographer and Senior Radiographer, and the pre-revised pay scales for the post of Radiographer on the Punjab Pattern was on 1200-2130 and 1410-2480, the revised pay scale was of 4550-7220 and 5480-8925 respectively.

The persons working under the same Administration and performing the same set of duties and in fact having higher qualification are drawing salary in the lower pay scale because of variation in nomenclature of the post.

The initial pay scale for the post of Radiographer and Senior Radiographer in the State of Punjab was 1200-2130 and 1410-2480, whereas despite there being notification dated 13.01.1992, respondent no.3-GMCH, created the post of Junior / Senior Radiographic Technician and fixed the pay scale as 1200-2100 and 1410-2480 respectively.

Therefore, the action of respondent no.3 in not adopting the same nomenclature for the posts and also in deviating from fixing the same pay scale, as is fixed for corresponding post of Radiographer in the State of Punjab is arbitrary and illegal and also against the settled position of law that the persons performing the same duties shall not be discriminated on the basis of nomenclature of the post.

- iii) In 1998 when the pay scales were revised as per 4th Punjab Pay Commission, pay for the post of Junior Radiographic Technician was revised from 1200-2100 to 4020-6200, whereas for the corresponding post of Radiographer in the State of Punjab the pay was revised from 1200-2130 to 4550-7220 and similarly, the pay scale of Senior Radiographic Technician was revised from 1410-2480 to 5000-8100, whereas in the State of Punjab the pay scales of Sr. Radiographer drawing the same pay scales of 1410-2480 was revised to 5480-8925. The same resulted in pay anomaly and the applicants and other similarly situated employees made representations to respondent no.3 for removal of pay anomaly.

On the representations made by the applicants, respondent no.3 took up the matter and wrote to respondent no.2 for considering the case of the applicants for change of nomenclature and removal of pay anomaly.

Since year 2000 upto 2013, respondent no.3 employer of the applicants has supported their case and has time and again written

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that the duties and responsibilities of both the posts is almost same and the nomenclature should be changed.

Only due to the involvement of financial implementation, the matter was referred to the Anomaly Committee and the Anomaly Committee vide its order dated 14.12.2009 (Annexure A-15), asked respondent no.3 to send the proposal with full justification and financial implementation, so that the same be forwarded to the Govt. of India.

However, on the other hand in the same meeting of the Anomaly Committee on 14.12.2009, the nomenclature of some of the Group 'C' posts was ordered to be changed as the corresponding posts in the State of Punjab were also drawing the same pay scale. The nomenclature of the post of Junior Laboratory Technician, which was drawing the pay scale of 4020-6200, i.e. the same scale as that of the applicants, was also changed on the Punjab Pattern.

6. No counter reply filed on behalf of respondent no.1.
7. In the written statement filed on behalf of respondents no.2 to 5, it has been stated that in 1994 the post of Senior Radiographic Technician (SRT) was created in the pre-revised pay scale of Rs.1500-2640 and the post of Junior Radiographic Technician in pre-revised pay scale of Rs.1200-2100. Subsequently the scales of pay of both the posts were revised in the pay scale of Rs.5000-8100 of Senior Radiographic Technician (SRT) w.e.f. 01.01.1996 and pay scale of Rs.4020-6200 of Junior Radiographic Technician (JRT) w.e.f. 01.01.1996 respectively. The notified Recruitment Rules came into force w.e.f. 06.06.2002 (Annexure P-25) and these pay scales of the posts appeared in these Rules at Sl.No.51 & 52 respectively. The Govt. of India, Ministry of Health & Family Welfare, New Delhi vide their letter no.V-24011/5/2011-ME-II dated 02.12.2013 under reference (Annexure 24) has rightly rejected the claim of the applicants on account of the reasons mentioned therein. Senior Radiographic Technician and Junior Radiographic Technician available in GMCH and Senior Radiographer and Radiographers available in the State Government of Punjab are not at par in view of different educational qualification, experience, pay scales and mode of recruitment. As such the parity being sought cannot be granted.
8. Arguments advanced by the learned counsel for the parties were heard, when learned counsel reiterated the facts and grounds taken in the OA

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and rejoinder. He also cited i) Yogeshwar Prasad & Ors. Vs. National Institute of Education Planning and Administration & Ors. (2010) 14 Supreme Court Cases 323; ii) Association of Employees of National Productivity Council Vs. Chairman, National Productivity Council and Anr. (2013) 14 SCC 613; iii) State of Haryana & Ors. Vs. Charanjit Singh & Ors. (2006) 9 SCC 321; and iv) Union Territory Administration, Chandigarh & Ors. Vs. Manju Mathur & Anr. (2011) 2 SCC 452 in support of the claim of the applicants for pay parity with persons performing allegedly similar duties in Punjab State.

9. Learned counsel for the respondents reiterated the content of the written statement.

10. We have given our careful consideration to the matter. The comparative chart annexed with letter dated 14.09.2010 from Director Principal, Government Medical College, Chandigarh to the Special Secretary, Medical Education and Research, Chandigarh Administration (Annexure A-22) shows as follows:-

Govt. Medical College & Hospital, Sector 32, Chandigarh.	Punjab Position (Director Health and Family Welfare, Punjab).
<p><u>Name of the post: Jr. Radiographic Tech/X-ray Tech.</u> Pre-revised (effective from 01.01.96)-4020-6200. Revised- (effective from 01.01.2006)-5910-20200+2400 GP. <u>Essential Qualification as per Notified RRs of GMCH (Annexure 'A'):</u> B.Sc. Medical Technology (X-ray Techniques / Radiology) from a recognized Institute. OR i) 10+2 or equivalent examination passed with Science Subject from a recognized Board: and ii) Radiographer's / X-ray Technologist's course of minimum one year duration (including in field training in diagnostic Radiology) passed from a recognized Institution.</p>	<p><u>Name of the post: Radiographer</u> Pre-revised (effective from 01.01.96)-4550-7220. Revised-(effective from 01.01.2006)-5910-20200+3000 GP. <u>RRs of the Deptt. of Health & Family Welfare, Punjab (Annexure 'AA')</u> i) Should have passed the Sr. Secondary Part-II examination in Science or its equivalent from a recognized university or institution: and ii) Should possess a diploma in Radiography from a recognized university or institution.</p>
<p><u>Name of the post: Sr. Radiographic Tech./Radiographic Tech./Resident Radiographic Tech.</u></p>	<p><u>Name of the post: Sr. Radiographer</u> Pre-revised (effective 01.01.96)-5480-8925</p>

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<p><u>Pay Scale:</u> Pre-revised(effective from 01.01.96)- 5000-8100 Revised (effective from 01.01.2006) – 10300-34800 + 3200 GP. <u>Essential Qualification as per Notified RRs of GMCH (Annexure 'A')</u> <u>For Direct Recruitment:</u> B.Sc. (Radiology) with 02 years experience in a hospital. <u>For Promotion:</u> From Junior Radiographic Technician with 05 years experience on regular basis in the grade.</p>	<p>Revised-(effective from 01.01.2006)- 10300-34800+3600 GP <u>RRs of the Deptt. of Health & Family Welfare, Punjab (Annexure 'AA')</u> Only Senior most 17% Radiographers will be placed in the pay scale of Rs.5480-8925 (Pre-revised).</p>
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The tabular statement above makes it quite clear that there are significant differences between the qualifications prescribed for appointment / promotion in respect of the posts of JRTs and SRTs in the GMCH, Sector 32, Chandigarh and those posts in Punjab to which reference has been made while claiming parity in nomenclature and pay scale by the applicants. Besides, right from the time that the posts of JRT and SRT were created in GMCH, Sector 32 in 1994 different nomenclature and pay scales have been in vogue in GMCH. Hence, we conclude that letter no.V.24011/5/2011-ME-II, dated 02/05.12.2013 (Annexure A-24) rejecting the claim of the applicants has been issued on valid grounds. It is also observed that the Chandigarh Administration has notified the Govt. Medical College, Chandigarh Schedule II Recruitment Rules in June, 2002 and in the same retained the designations and pay scales applicable to these posts prior to the notification of these rules. These rules have been notified after the concurrence of the Govt. of India.

10. In view of the discussion above we are of the view that there is no merit in this OA and the same is rejected. No costs.

(JUSTICE L.N.MITTAL)
JUDICIAL MEMBER

(RAJWANI SANDHU)
ADMINISTRATIVE MEMBER

Place: Chandigarh
Dated: 5.11.2015
sv:

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

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21. M.A. No.060/01229/2016 IN
O.A. No.060/00675/2014

(KASHINATH YADAV VS. UOI & ORS.)

07.10.2016

Present: Sh. Sandeep Siwach proxy for Sh.
Rohit Sharma, counsel for the
applicant in M.A.

1. Counsel for the applicant has moved this application for supply of certified copy of complete paper book as the same is required for further litigation.
2. Registry is directed to provide the same after payment of prescribed fees.

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CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH, SECTOR-17,
CHANDIGARH.

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SUBJECT: - Particlars of orders challenged in the Hon'ble High COURT
OF PUNJAB AND Haryana Chandigarh.

PUC is a notice received from the Hon'ble High Court of Punjab and Haryana, Chandigarh in C.W.P.No. 26999/2016 title Jai Gopal Sharma vs CAT & Ors filed against the CAT order dated 5/11/15 in O.A.No 60/1675/14 passed by the Hon'ble Bench consisting of Hon'ble Mr. L. D. Mittal Member (A) and Hon'ble Mrs. Ranjana Saxena Member (B).

CAT has been impleaded as a party simply because the order under challenge was passed by it. No relief has been claimed against the CAT. No action is, therefore, required to be taken by CAT. We may file it.

Submitted for order please.

31/3/17

31/3/2017

RECORD INCHARGE

DEPUTY REGISTRAR

31/3/17

REGISTRAR

31/3/17

OA-60/075/14 dt. 5/11/10 - Punjab
by Hon'ble L.N.M./R.S. 39

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.
CIVIL WRIT PETITION
CIVIL WRIT No. 26999 of 2016

Jai Gopal Sharma and Ors

Petitioner(s)

Versus

The Central Administrative Tribunal, Chandigarh Bench and Ors
Respondent(s)

NOTICE OF MOTION

To

1. The Central Administrative Tribunal, Chandigarh Bench, Sector 17,
Chandigarh through its Registrar.

Whereas a petition under Article 226 /227 of the Constitution of India, wherein you have been joined as respondent and of which a copy is enclosed.

You are hereby informed that the said petition has been fixed for hearing on 21.08.2017 (Actual) and that if you wish to urge anything in reply to the petition, you may appear in this Court on that date, and file your written statement 3 days before that day either in person or through any Advocate duly instructed.

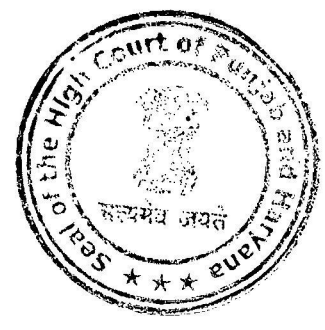
Take notice that in default of your appearance on the date aforementioned the case shall be heard and decided in your absence.

Given under my hand and the seal of the Court this 23rd March 2017.

BY ORDER OF THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Seep J
SUPERINTENDENT (WRITS) for
ASSISTANT REGISTRAR (WRITS)

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Date
28/3/17

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20/03/17

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