

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
CHANDIGARH**

O.A. No.060/00149/2014

**Pronounced on: 29.02.2016
Reserved on: 18.02.2016**

**Coram: HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER (J)
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)**

1. Naresh Sharma wife of Late Sh. Vinod Sharma, 101/6 A Block, Guru Amar Dass Avenue, Ajnala Road, Amritsar (Punjab)
2. Nirmal Kocher w/o Sh. Surjit Singh, Welfare Officer, Military Hospital Amritsar (Punjab), through SPA Naresh Sharma wife of Late Sh. Vinod Sharma.
3. Vandana Pathak, Welfare Officer, Command Hospital, Northern Command, Udhampur (J&K) through SPA Naresh Sharma wife of Late Sh. Vinod Sharma.
4. Tapti Majumdar, Welfare Officer, 166, Military Hospital, Jammu (J & K) through SPA Naresh Sharma wife of Late Sh. Vinod Sharma.

.....Applicants

Versus

1. Union of India through the Secretary (Proceeded against ex-parte vide order dated 28.08.2014)
2. Ministry of Health & Family Welfare through its Secretary, (Proceeded against ex-parte vide order dated 28.08.2014)
3. Secretary General, Indian Red Cross Society, 1 Red Cross Road, New Delhi.
4. Director (Personnel & Administration) Indian Red Cross Society, 1 Red Cross Road, New Delhi.

.....Respondents

Present: Mr. Rajeev Anand, counsel for the applicants
Mr. Y.P. Singla, counsel for the respondents No. 3 and 4



Order

BY HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER(J)

1. Applicants (four in number) have filed the instant O.A. seeking the following reliefs:-

- (i) For quashing of order dated 04.09.2012 (Annexure A-1) passed by the office of Respondent No. 3 wherein the representation of the petitioner seeking their service status/rank as has been given in the various regulations and instructions governing the post of Welfare Officers in the Indian Red Cross Society and commensurating pay and allowances including the benefits like pensionary and other benefits that are entitled to any other autonomous/semi government body for the purely humane and public function having peace and war time role being undertaken by the petitioners being welfare officers in the Indian Red Cross Society.
- (ii) Directions to the respondents for constitution of a commission to look into the welfare, status, Pay and allowances and other benefits that are required to be granted to the petitioners being the Members of the Indian Red Cross Society and organization under the Government of India of which the ex-officio President is the President of India functioning through its Secretary General and the duties and tasks being entrusted upon and undertaken by the petitioners under the Indian Red Cross Society Act, 1920 and the Rules made therein. ”

2. Applicants are Welfare Officers in Indian Red Cross Society (in short 'the Society') – Respondents No. 3 and 4. They have alleged that they performed duties with Military Hospital as representatives of the Society. Applicant No. 1 was appointed as Welfare Officer on 04.09.1986. Other applicants were appointed on different dates. The duties of Staff Welfare Officer are to assist the Director with administration of the welfare services and, purchase and issue of Diversional Therapy Stores and perform such other duties as may be assigned to her. Other duties have been assigned to Welfare Officers as under:-

1. Diversional Therapy handicrafts
2. Red Cross Stores-keeping

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3. Hospital Libraries
4. Letter Writing for and assistance to the patient in personal problem.
5. Organization of outing and entertainments
6. Shopping Services
7. Any other similar duty that may be added to this list for the administration of welfare service.

NOTE: The supervision of hospital laundry and kitchens is not part of the Welfare Officers duties. They will not be posted to work in the Family's Hospitals or Local Welfare Centre. "

3. The Society approved the implementation of 6th Central Pay Commission (CPC) to the employees of the Society vide order dated 28.01.2009 (Annexure A-8). The applicants being not satisfied with the pay band and grade pay given to them gave legal notice dated 18.09.2009 (Annexure A-10) to the Society. No action was taken thereon. Then the applicants filed Writ Petition No. 8878/2011 titled Naresh Sharma & Others Vs. Union of India & Others in the Hon'ble High Court of Punjab and Haryana. The Writ Petition was disposed of by the Hon'ble High Court vide order dated 19.05.2011 (Annexure A-11) with direction to the Society to decide the aforesaid legal notice of the applicants within four months after affording personal hearing to them. In compliance with the said order, Respondent No. 4 Director (Personnel and Administration) of the Society has passed speaking order dated 04.09.2012 (Annexure A-1) after affording opportunity of hearing to the applicants, thereby rejecting the claim of the applicants for higher pay band and grade pay. The applicants, elaborating the duties being performed by them, have claimed pay band PB-2 Rs.9300-34800 with grade pay Rs.4200/- in place of PB-1 Rs.5200-20200 with grade pay of Rs.2800/- given to the Welfare Officers and grade pay of Rs.1900/- given to the Junior Welfare Officers, by the Society.

4. Respondents No. 3 and 4 in their written statement controverted the claim of the applicants. It was pleaded that at the time of appointment, Welfare Officers were placed in the pay scale of



Rs.125-275. The scale was revised to Rs.330-560 in the year 1976 and while implementing 4th CPC, the Welfare Officers were placed in the pay scale of Rs.1200-2040 corresponding to pre-revised pay scale of Rs.330-560. While implementing recommendations of 5th CPC, the pay scale of the Welfare Officers was revised to Rs.4500-7000 in the year 1996. On implementing the recommendations of 6th CPC in the year 2006, Welfare Officers were placed in the corresponding PB- 1 of Rs.5200-20200 with grade pay of Rs.2800/- and Junior Welfare Officers with grade pay of Rs.1900/-. These Welfare Officers are posted in Defence Hospitals in the capacity of Welfare workers. The claim of the applicants that they perform same duties as that of Staff Nurse in para-medical department was denied as baseless. Qualifications of Staff Nurses and their sphere of work were alleged to be quite technical whereas Welfare Officers have been assigned work of social nature in Defence Hospitals and their qualifications and nature of duties are quite different from those of Staff Nurses. Various other pleas were also raised.

5. Respondents No.1 and 2 (Union of India) were proceeded against ex parte.

6. Applicants in their rejoinder controverted the stand of Respondents No. 3 and 4 and reiterated their version.

7. The applicants also filed MA NO. 060/00999/2015 giving therein comparative chart of scales w.e.f. 01.01.1986, 01.01.1996 and 01.01.2006 (as per 6th CPC) and also placed on record documents (Annexures C-1 and C-2).

8. Respondents No. 3 and 4 filed additional affidavit dated 06.01.2016 countering the stand of the applicants in the aforesaid MA No. 060/00999/2015.

9. We have heard learned counsel for the parties and perused the file.

10. Learned counsel for the applicants vehemently contended that the applicants are entitled to PB-2 Rs.9300-34800 with grade pay of Rs.4200/- in view of nature of duties ^{being} performed by them and in view of pre-revised pay scale of Rs.5000-8000 given to them. Referring to salary slip at page 122 of the paper-book, learned counsel for the applicants contended that the applicants were given basic pay of Rs.5000/- as on 01.01.1996 and, therefore, they were in pay scale of Rs.5000-8000 w.e.f. 01.01.1996 as per 5th CPC and therefore, the corresponding scale of pay as per the 6th CPC would be Rs.9300-34800 with grade pay of Rs.4200/-.

11. On the other hand, learned counsel for the respondents contended that duties and qualifications of the applicants are quite different from those of Staff Nurses and, therefore, the applicants cannot claim pay parity with Staff Nurses. It was also submitted that as per 5th CPC, the applicants were never given scale of Rs.5000-8000. On the other hand, they were placed in the pay-scale of Rs.4500-7000 w.e.f 01.01.1996 and accordingly they have been rightly placed in corresponding PB-1 of Rs.5200-20200 with grade pay of Rs.2800/- w.e.f. 01.01.2006, as per 6th CPC.

12. We have carefully considered the matter. There is no material on record to depict that as per the 5th CPC, the applicants were given scale of Rs.5000-8000. On the other hand, Respondents No. 3 and 4 in their additional affidavit dated 06.01.2016 have stated that initially the Welfare Officers were drawing pay-scale of Rs.125-275 which was revised to Rs.330-560 in the year 1996 as per 3rd CPC. This scale was revised to pay scale of Rs.1200-2040 w.e.f. 01.01.1986. This scale was further revised to Rs. 1400-2300 w.e.f. 01.10.1988. As per



the 5th CPC, the Welfare Officers were given revised pay scale of Rs.4500-7000 w.e.f. 01.01.1996 which corresponded to pre-revised scale of Rs.1350-2200 as well as scale of Rs.1400-2300. Similarly as per 6th CPC, PB-1 of Rs.5200-20200 with grade pay of Rs.2800/- has been rightly given to the Welfare Officers w.e.f. 01.01.2006 corresponding to pre-revised scale of Rs.4500-7000 and Junior Welfare Officers have been given the same Pay Band with grade pay of Rs.1900/-. It has specifically been denied that the applicants were ever assigned pay scale of Rs.5000-8000 under 5th CPC, as claimed in their MA No. 060/00999/2015. Pay Scale of Rs.5000-8000 w.e.f 01.01.1996 corresponded to pre-revised scale of Rs.1400-2660 which had never been given to the applicants. Even as per chart given by the applicants in their MA No. 060/00999/2015, pay-scale of Rs.4500-7000 w.e.f. 01.01.1996 corresponded to the pre-revised scale of Rs.1350-2300. According to the affidavit of contesting respondents, the same scale of Rs.4500-7000 w.e.f. 01.01.1996 also corresponded to pre-revised scale of Rs.1400-2300 which had been given to the applicants. It is, thus, evident even from the chart given by the applicants that they have been rightly placed in PB-1 of Rs.5200-20200 with grade pay of Rs.2800 for Welfare Officers and grade pay of Rs.1900/- for Junior Welfare Officers. The applicants have failed to substantiate their claim for grade pay of Rs.4200/- in PB-2 of Rs.9300-34800/- .

13. Contention of learned counsel for the applicants that the applicants had been granted pre-revised pay scale of Rs.5000-8000 because their basic pay was fixed at Rs.5,000/- w.e.f. 01.01.1996, as depicted in the salary statement at page 122 of the paper-book, is completely mis-conceived and devoid of merit. Said basic pay of Rs.5,000/- might have been fixed in the pay scale of Rs.4500-7000 because the old employees on revision of pay scales are not placed at



minimum of the revised pay scale but are given some weightage for the service already rendered by them and thus their basic pay on revision is fixed after adding some increments in the revised scale. Consequently, basic pay of Rs.5000/-, as depicted in the aforesaid salary statement, was also in the pay scale of Rs.4500-7000/- . At the risk of repetition, it may be added that the contesting respondents in their additional affidavit dated 06.01.2016 have specifically stated that the applicants were placed in the pay scale of Rs.4500-7000 w.e.f. 01.01.1996 and not in the pay scale of Rs.5000-8000/-. The applicants have failed to place on record any material to depict that they were placed in the pay scale of Rs.5000-8000 w.e.f. 01.01.1996. It is, thus, evident that the applicants have thus rightly been placed in the revised PB-1 of Rs.5200-20200 with grade pay of Rs.2800/- for Welfare Officers and grade pay of Rs.1900/- for Junior Welfare Officers w.e.f. 01.01.2006.

14. In addition to the aforesaid, fixation of pay is not function of the Courts/Tribunals. This function has to be discharged by the executive who have the benefit of expert advice and necessary data. The Courts/Tribunals may, at best, direct the executive to consider the claim of the aggrieved employees. In the instant case, however, the said relief is also not available to the applicants because the Hon'ble High Court vide order dated 19.05.2011 (Annexure A-11) had already directed the Society to decide the legal notice of the applicants regarding their aforesaid claim and accordingly the Society has decided the same vide the impugned order (Annexure A-1). Consequently, no further direction is also required to be given to the Society for considering the claim of the applicants for better pay scales.

15. We also cannot direct the respondents to constitute a separate Pay Commission for determining pay scales of employees of the Society, as claimed in the O.A. by the applicants. Union of India had



constituted 6th CPC and its recommendations have been implemented. Union of India also constituted 7th CPC and its report has already been received and is being processed. There is no justification for constituting a separate Pay Commission for the employees of the Society only.

16. For the reasons aforesaid, we find no merit in the instant O.A. which, accordingly, stands dismissed with no order as to costs.

(RAJWANT SANDHU)
MEMBER (A)

(JUSTICE L.N. MITTAL)
MEMBER (J)

PLACE: Chandigarh
Dated: 29.02.2016

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