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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00703/2014

Order Reserved on 09.04.2015

Pronounced on 17.4.2015

...
**CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)**

...
Harjinderpal Singh son of Sh. Nasib Singh, resident of V.P.O. Sohana
(Near Old Police Station), Tehsil & District S.A.S. Nagar-Mohali (Punjab).

... Applicant

Versus

1. Union of India through its Secretary to Govt. of India, Ministry of Health and Family Welfare, New Delhi.
2. The Post Graduate Institute of Medical Education & Research (PGIMER), Sector 12, Chandigarh through its Director.

... Respondents

Present: Mr. R.K. Gautam, counsel for the applicant.
Mr. Sanjay Goyal, counsel for the respondents.

ORDER

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

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

- "8 (i) To quash the impugned order dated 30.04.2014 (Annexure A-1).
- (ii) To direct the respondent no.2, to consider the claim of the applicant for the promotion on the post of Junior Technician (Lab) being senior most and fully eligible employee in the cadre of Lab Attendants on adhoc basis till the modification/amendment is made in the rules as per the

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recommendations made by the Committee in its meeting held on 19.05.2009.

- (iii) To direct the respondent no.2 to implement the decision taken by the Committee constituted by the respondent no.2 in its meeting held on 19.05.2009 (Annexure A-2) in which a decision was taken that 10% posts for the promotion to the post of Junior Lab Technician are to be filled by way of promotion from Laboratory Attendants, who fulfill the requisite qualification.
- (iv) For issuance of directions to the respondents to implement the cadre structure in the cadres of the applicant i.e. Laboratory Attendant as per the pattern of AIIMS, New Delhi, for all purposes including pay scales and promotion etc. as the applicant is similarly situated qua his counterparts working under AIIMS, New Delhi and as such cannot be discriminated in the matter of pay scales and promotion, especially when the decision has already been taken up to implement the cadre structures and pay scales as per norms and pattern of AIIMS, New Delhi.
- (v) To direct respondent no.2 to pay salary to the applicant in the pay scale meant for the post of Junior Technician (Lab.) alongwith arrears with interest @12% per annum from 2011, as he is performing his duties on this post on the basis of 'equal pay for equal work'.
- (vi) Arrears of salary becoming due to be paid on account of filing the present application be ordered to be paid along with interest @ 12% p.a."

2. This is the second round of litigation in the matter and in the grounds for relief it has, inter alia, been stated as follows:

- i. The impugned order has been passed by respondent no.2 without application of mind and without considering the submissions raised in the representation dated 01.11.2012, coupled with legal notice dated 07.01.2013.
- ii. The claim of the applicant has been rejected by the respondent in arbitrary manner and with malafide intention.
- iii. The recommendations of the Committee dated 19.05.2009 have not been taken into consideration, while passing the impugned order by respondent no.2. *As*

- iv. The reasons given in the impugned order that the representative of the Medical Lab. Attendant Association to give in writing whether the proposal of the Institute was acceptable to them for modification of the recruitment rules of the Jr. Lab Technician and till date the Association did not submit their acceptance in this regard are not sustainable and believable. The issue raised by the Lab Attendant Association has no concern and connection with the amendment of recruitment rules, for the promotion of Junior Technician(Lab) as recommended by the Committee in its meeting held on 19.05.2009 and respondent no.2 is delaying the matter of amendment in the rules for the last more than 5 years.
- v. The promotion from the cadre of Lab Attendant is not being made by respondent no.2 as per the decision taken by the Governing Body of PGIMER, Chandigarh in its meeting held on 29.09.1975 as referred above and therefore, there is clear cut discrimination with the cadre of Lab Attendants. It is settled law of land as held by the Hon'ble Supreme Court in the reported case of A.I.R. 1988 S.C. 1033 in which it was held that there must be promotional avenue for all employees. The applicant is working as Laboratory Attendants since the year 2002 and was not promoted by respondent no.2 even after he qualified the three year course of B.Sc. MLT, which is basic qualification for the post of Junior Technician (Lab) as recommended by the Committee in its decision dated 19.05.2009.
- vi. Respondent no.2 has made various promotions in various cadres in PGI, Chandigarh without there being any amendment in the rules on pick and choose basis to whom they like but in the case of the applicant, the plea is being taken that the proposal for modification of the recruitment rules of Junior Lab Technician could not be undertaken in the absence of written consent by the association of Lab Attendants. The whole approach of respondent no.2 is alien to law. Vide orders dated 22.01.1994 and 10.12.2012, various employees of Lab Attendants were promoted as Junior Lab Technicians without any modification and amendment in recruitment rules but the claim of the applicant has been rejected arbitrarily.
- vii. Respondent no.2 could not make any amendment/modification in the recruitment rules up till now, for promotion of Lab Attendants to the post of Junior

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Technician (Lab.) as per the recommendations made by the Committee in its meeting held on 19.05.2009 and these posts are being filled by respondent no.2 from direct quota and in future if modification in the rules is made by respondent no.2 then no posts of Junior Technician (Lab.) will remain vacant. The applicant would be prejudiced in case the directions are not issued to respondent no.2 to promote the applicant on adhoc basis till the amendment is made in the rules as per AIIMS, New Delhi pattern.

viii.

By virtue of the decision taken by the Cadre Anomaly Committee, Standing Finance Committee and Governing Body of respondent no.2, the applicant has become entitled to the pay scales granted to his counter parts in AIIMS, New Delhi and as such denial of the same to the applicant is not sustainable in the eyes of law being violative of Article 14 and 16 of Constitution of India.

3.

In the written statement filed on behalf of the respondents it has been stated that the Government of India, Ministry of Health & Family Welfare, vide letter No.C-18018/1/2010-ME-II dated 27.05.2011 conveyed the approval of the Ministry of Finance, Department of Expenditure for restructuring of the cadre of the Laboratory Attendant and allowing the higher pay scale to Lab Attendant at par with AIIMS, New Delhi with the restructuring of the cadre as under:-

Existing structure in PGIMER	Approved structure in PGIMER	Existing Structure in AIIMS
Lab Attendant Gr-III-30 posts, PB-I+1800	Lab Attendant Gr-II-21 posts, PB-I+1900	Lab Attendant Gr-II-60 posts, PB-I+1900
Lab Attendant Gr-II-13 posts, PB-I+1900	Lab Attendant Gr-I/Lab Asstt.-19 posts, PB-I+2000	Lab Attendant Gr-I/Lab Asstt.-55 posts, PB-I+2000
Lab Attendant Gr-I-5 posts, PB-I+2000	Sr. Lab Attendant 8 posts, PB-I+2400	Sr. Lab Attendant 22 posts, PB-I+2400



Accordingly, the cadre structure of Laboratory Attendant was restructured at this Institute vide order dated 30.05.2011.

4. It has further been stated that as per the recruitment rules for the post of Jr. Lab Technician appointment to this post is 100% by direct recruitment and as such, the applicant cannot be promoted as Jr. Lab Technician. The Government of India, Ministry of Health and Family Welfare vide order dated 27.04.2012 constituted a Co-ordination Committee under the chairmanship of Deputy Director, AIIMS, New Delhi consisting of DDA and MS of PGIMER, Chandigarh, JIPMER, Pondicherry and AIIMS, New Delhi. This Coordination Committee examined the issue of harmonization of recruitment rules of various categories of posts existing in all the three Institutes so as to bring uniformity and to remove anomalous situation in these cadres. The Coordination Committee submitted its report to the Government of India and this report is still under examination. As and when the approval of Government of India is received, the same would be implemented in the Institute accordingly.

5. Rejoinder has been filed on behalf of the applicant reiterating the content of the O.A.

6. Arguments advanced by learned counsel for the parties were heard. Learned counsel for the applicant reiterated the content of

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the O.A. and rejoinder and also submitted written arguments that have been taken on record.

7. Learned counsel for the respondents stated that claim of the applicant had been considered as per directions of C.A.T. Chandigarh Bench in O.A. No.272/CH/2013 and a speaking order has been passed in the matter. Since at present there was no provision in the rules for promoting Lab Attendants as Junior Lab. Technician, the claim of the applicant was without merit.

8. We have carefully perused the impugned order dated 30.04.2014, pleadings of the parties and the material on record. In the absence of rules providing for promotion of Lab Attendant as Junior Technician (Lab), the claim of the applicant for such promotion is without merit. However, it is also clear from the written statement that a Co-ordination Committee had been constituted by the Ministry of Health and Family Welfare to examine the issue of harmonization of recruitment rules for various categories of posts in AIIMS, New Delhi PGIMER, Chandigarh, and JIPMER, Pondicherry. The Co-ordination Committee has submitted its report which is under examination with Govt. of India and when decision in this regard is taken, the same shall be implemented by the PGIMER. Hence, the claim of the applicant may well be covered by the view taken by the Coordination Committee/Ministry of Health and Family Welfare



regarding changes in the recruitment rules for various categories of posts so that anomalies on account of there being no scope of promotion are addressed. Since this matter is pending consideration with the Government of India, it would be advisable for the applicant to await decision of Govt. of India in this regard. Meanwhile, claim made by the applicant in this O.A. cannot be allowed. Hence the O.A. is rejected.

B. A. Aggarwal
(DR. BRAHM A. AGRAWAL)
MEMBER (J)

As —
(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.
Dated: 17. 4. 2015.

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

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. 14012/15 title H. Pal Singh Versus DD-9, 408 filed against the CAT order dated 17.04.15 in O.A.No 060/20703/14 passed by the Hon'ble Bench consisting of Hon'ble Mr. S. Rajwansh Saxena Member (A) and Hon'ble Mr. D. B. A. Arora 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.

SECTION OFFICER(J).

DEPUTY REGISTRAR

REGISTRAR

on leave

31/7/15

31/7

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Sent Thursday, July 30, 2015 1:59 pm

To dsadm-ayush@nic.in , shekhar.chandra@nic.in , catrg-chd@nic.in

Subject Notice of Motion in caseCWP-14012-2015

Attachments CWP_14012_2015 PAPER BOOK.pdf

7.1MB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL WRIT JURISDICTION

CWP NO. 14012 OF 2015

HARJINDER PAL SINGH

versus

UNION OF INDIA AND OTHERS

Petitioner(s)

Respondent(s)

NOTICE OF MOTION

To

DEPARTMENT OF AYUSH(MINISTRY OF HEALTH & FAMILY WELFARE),Govt. Of India
Central Adminsitratve Tribunal,CHANDIGARH

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/copy has already sent to you with previous notice(s).

You are hereby informed that the said petition has been fixed for hearing on **05/11/2015** (**Actual**) and that if you wish to urge anything in reply to the petition, you may appear in this Court on that 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 **30th** day of **July, 2015**.

BY ORDER OF THE HIGH COURT OF PUNJAB AND HARYANA

ASSISTANT REGISTRAR (Writs)

Note: You or your authorized representative may obtain hard copy of order from writ branch.

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4. Whether the claim of the petitioner being eligible employee was wrongly rejected by the respondent No.2 in its order dated 30.4.2014?
5. Whether arbitrariness and discrimination in this case is not writ large in this case?
6. Whether articles 14 and 16 of Constitution of India has not been violated by the respondents in the present case?

11. That the petitioners have not filed any such or similar writ petition against the impugned orders dated 17.04.2015, either in this Hon'ble Court or in the Hon'ble Supreme Court of India.

12. That there is no other alternative or efficacious remedy of Appeal/Revision against the impugned orders available to the petitioner under the rules, except to approach this Hon'ble Court in the present writ petition.

PRAYER CLAUSES:-

Keeping in view the aforesaid peculiar facts and submissions, it is, therefore, respectfully prayed that this Hon'ble Court may kindly be pleased, to summon the relevant record from the respondents and after perusing the same may be pleased to:-

- i) Issue a writ in the nature of Certiorari thereby quashing the impugned orders dated 17.04.2015 (**Annexure P-5**); being illegal, invalid, wrong, void, unjustified, not sustainable in law and has been passed without considering the whole material available on the record of O.A.No.0060/703 of 2014 including the written arguments, submitted before the Hon'ble CAT, Chandigarh Bench and the impugned order dated 30.04.2014, passed by the respondents, which was challenged in the aforesaid O.A. deserves to be quashed on the grounds mentioned in the said O.A. and the petitioner is entitled to all the reliefs claimed therein, in the interest of justice;

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

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. 140/12/15 title Harinderpal Singh Versus U.O. 808, filed against the CAT order dated _____ in O.A.No 060/20783/14 passed by the Hon'ble Bench consisting of Hon'ble Mrs. R. Sachdev Member (J) and Hon'ble Mr. D.S. B. A. Baysawly Member (J).

CAT has been impleaded as a party simply because the order under challenge was passed yb 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.

14/08/15
SECTION OFFICER(J).

DEPUTY REGISTRAR / PPS - on leave

REGISTRAR

24/09/15

THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL WRIT JURISDICTION

C.W.P. NO. 14012-CAT of 2015 (O.A. No. 060/00703/2014)

Harjinder Pal Singh

Petitioner(s)

Versus

Union of India & ors.

Respondents

NOTICE OF MOTION

To,

3 Central Administrative Tribunal, Chandigarh Bench,
Chandigarh, 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/has already been sent to you and has been presented to this Court.

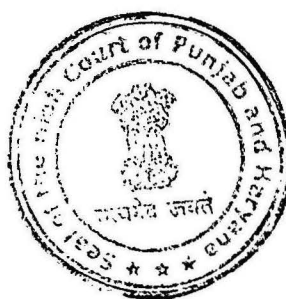
You are hereby informed that the said petition has been fixed for hearing on 05.11.2015 (Actual) and that if you wish to urge anything in reply to the petition, you may appear in this Court on that date, and file your written statement 3 days before that day either in person or through any advocate duly instructed.

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

Given under my hand and the seal of the Court this 30th day of July 2015.

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

ASSISTANT REGISTRAR(Writs)



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[Signature]