

(2019) 03 UK CK 0109

In the Uttarakhand High Court

Case No : Writ Petition (S Of B) No. 238 Of 2018

Dr. Pooja Srivastava & Others

APPELLANT

Vs

State Of Uttarakhand & Another

RESPONDENT

Date of Decision : 20-03-2019

Acts Referred:

Citation : (2019) 03 UK CK 0109

Hon'ble Judges : Ramesh Ranganathan, CJ; N.S. Dhanik, J

Bench : Division Bench

Advocate : Vinay Kumar, Prabha Naithani

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

The relief sought for in the writ petition is for a mandamus directing the respondents to grant the benefit of the Government Order No. 15 dated 28.01.2015 issued by the Principal Secretary, AYUSH and AYUSH Education, Government of Uttarakhand, whereby the Homeopathic Medical Officers working on contract basis in the State, under the National Health Mission scheme of the Government of India, were sanctioned Rs. 10,000/- per month as enhanced honorarium by the State Government.

Facts, to the limited extent necessary, are that pursuant to the advertisement issued by the Director, Homeopathic Medical Services, Uttarakhand on 05.11.2015, for appointment as Homeopathic Medical Officer on contract basis under the National Health Mission run by the Government of India in the State of Uttarakhand, 13 posts of Homeopathic Medical Officers were advertised of which 12 posts were under the Health Mission, and 01 post for female Homeopathic Medical Officer was under RCH. The advertisement stipulated that posting would be given, under the National Health Mission, on contract basis on fixed honorarium. Clause 7 of the said advertisement stipulated that the honorarium would be Rs.24,000/- per month. Pursuant to the said advertisement, the

petitioners were selected and appointed as Homeopathic Medical Officers, and were posted at different Community Health Centers/Primary Health Centers. The said appointment orders were issued in their favour on 10.03.2016. Consequent thereto, the petitioners are now working on a monthly honorarium of Rs. 24,000/- per month.

It is the petitioners' case that, on 20.04.2017, the Director Homeopathic Medical Services requested the Secretary, AYUSH and AYUSH Education seeking enhancement of the honorarium of the Medical Officers appointed on contract basis under the National Health Mission Scheme of the Government of India. The said communication referred to Government Order No. 15 dated 28.01.2015, whereby the State Government had approved honorarium of 18 Homeopathic Medical Officers, working on contract basis in the State of Uttarakhand under the NRHM scheme, from Rs. 26,400/- per month to Rs. 36,400/- per month.

The petitioners' complaint in this writ petition is that, while the 18 medical Officers appointed in the year 2010-11 were getting additional honorarium of Rs. 10,000/- per month, the 10 Medical Officers, appointed in the year 2016 on contract basis, were only getting honorarium of Rs. 26,400/-; and they were not sanctioned additional honorarium of Rs. 10,000/- by the State Government. They have, therefore, invoked the jurisdiction of this Court seeking a writ of mandamus directing the respondents to extend them the benefit of Government Order No. 15 dated 28.01.2015.

In the counter affidavit, filed on behalf of the second respondent, it is stated that the petitioners' were appointed as Homeopathic Medical Officer on their having accepted the terms and conditions stipulated in the advertisement, and on their having participated in the selection process; 18 contractual Homeopathic Medical Officers, who had completed 5 years continuous service on a monthly honorarium, had sought enhancement of the honorarium; considering their 5 years satisfactory service, and in order to protect them against inflation, Government Order No. 15 dated 28.01.2015 was issued by which honorarium had been increased from Rs. 26,400/- to Rs. 36,400/-; the increased honorarium was in relation to 18 Homeopathic Medical Officers who were all appointed in the year 2011; this benefit was extended to them considering their 5 years satisfactory service; and the petitioners cannot claim parity with them.

As noted hereinabove, the petitioners' claim the benefit of Government Order No. 15 dated 28.01.2015 which was issued nearly ten months prior to the date on which an advertisement was issued on 05.11.2015 inviting applications from eligible candidates. Clause 7 of the said advertisement, as noted hereinabove, prescribed the monthly honorarium as Rs. 24,000/-. The petitioner chose to apply pursuant to the advertisement and, on their being selected, joined the post having accepted the terms and conditions of the advertisement, which included payment of an honorarium of Rs. 24,000/- per month. Having accepted appointment on the basis of the advertisement, the petitioners now seek the benefit of a Government Order issued ten months prior to the date on which the

advertisement was issued inviting applications, pursuant to which the petitioners were appointed as Homeopathic Medical Officers.

The stand of the State Government, as noted hereinabove, is that the 18 contractual Homeopathic Medical officers had put in 5 years of service by the time the Government Order dated 28.01.2015 was issued, and the benefit was extended to them with a view to protect them against inflation. The petitioners, who joined service in the year 2016 and have just completed two years of service, cannot claim parity with those Homeopathic Medical Officers who had already completed 5 years of service before Government Order dated 28.01.2015 was issued. The fact that the State Government had extended the benefit of an enhanced monthly honorarium to Homeopathic Medical Officers, who had completed 5 years of service by the time Government Order dated 28.01.2015 was issued, does not automatically confer any right on the petitioners to claim parity when, admittedly, they have not completed 5 years of service.

Viewed from any angle, we are satisfied that the petitioners are not entitled for the relief sought for. The writ petition fails and is, accordingly, dismissed. No costs. Needless to state that this order shall not disable the petitioners, after they complete 5 years of service, from requesting the State Government to extend a similar benefit in their favour.