

(2007) 05 P&H CK 0021
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 17144-CAT of 2001

Mrs. Manju Mathur and Another

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 16-05-2007

Acts Referred:

Citation : (2007) 05 P&H CK 0021

Hon'ble Judges : L.N. Mittal, J;J.S. Khehar, J

Bench : Division Bench

Final Decision : Allowed

Judgement

L.N. Mittal, J.—The petitioners, through the instant writ petition, have challenged the order dated 20.04.2001 (Annexure P-16) of the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short, the Tribunal), thereby dismissing the Original Application (OA) No. 1017-CH of 1993, preferred by the present petitioners. They have also claimed the relief of revised pay scale, at par with pay scale of corresponding equivalent posts in the State of Punjab which was claimed by them in the aforesaid OA, before the Tribunal.

2. The petitioner No. 1 was working as a Senior Dietician and petitioner No. 2 as Dietician, under Director Health Services, Chandigarh Administration, Chandigarh. The petitioners made representation for granting them pay scale at par with their counter parts in Punjab. However, their claim was not accepted by the respondents. Their OA claiming the said relief was also dismissed by the Tribunal.

3. It is not a matter of dispute that in view of various notifications issued by the respondents, the petitioners are entitled to pay scale at par, with their counter parts in the State of Punjab. The question to be adjudicated upon, however, is as to what are the corresponding equivalent posts in the State of Punjab.

4. To adjudicate upon the aforesaid question, it is pertinent to mention that there is no post of Dietician or Senior Dietician under Director, Health Services in the

State of Punjab. There is only a post of Assistant Dietician in the said Directorate. However, there are posts of Dietician (non-gazetted) and Dietician (gazetted) in the Department of Research and Medical Education in the State of Punjab. A chart of comparative qualifications and pay scales of all the aforementioned posts has been placed on the record as Annexure R-5, which is reproduced hereunder :-

Name of post

Qualifications

Pay scales upto 31.12.1985

As on 01.01.1986

As on 01.01.1996

Asstt. Dietician in Punjab (DSH)

B.Sc. Home Sc. With Experience Nil

570-1080

1500-2640

5480-8925

Dietician (NG) DRME in Punjab State

B.Sc. Home Sc. With Experience Nil

570-1080

1500-2640

5480-8925

Dietician (Gazetted) in Punjab State (DRME)

B.Sc. Home Sc. & Diploma in Dietetics with Experience Nil

750-1300

2200-4000

5800-9200

Dietician in UT Chd.

B.Sc. Home Sc. & Diploma in Dietetics or M.Sc.(Dietetics) experience preferred

510-940

1350-2400

4400-8925

Sr. Dietician in UT Chd.

B.Sc. Home Sc. & Diploma in Dietetics or M.Sc.(Dietetics) with 5 years experience as dietician

540-1080

1500-2640

5000-8100

Duties of Dietician in the Department of Research and Medical Education, Punjab, as contained in Annexure R-3 are as hereunder :

Duties of Dietician in Director Research and Medical Education, Punjab :

1. Dietician is responsible to the Medical Superintendent for providing proper diet to the patients.
2. He will exercise control over the cook, bearers and other staff working in the diet department.
3. He will exercise supervisory control on the distribution & preparation of diet to the patients.
4. He will arrange the supplies of dietary articles for hospital use on behalf of the Medical Superintendent.
5. He will scrutinize indent of dietary articles received from wards and see that no excess diet is issued against rules.
6. He will check the diets prescribed by the house staff in the wards according to rules and under proper authority.
7. He will check the diet registers maintained by the staff nurses I/c of each ward for proper record and maintenance.
8. He will exercise supervisory control on management of kitchen of Nurses Hostel and supervise the diet accounts of Nurses Hostel.
9. He will teach probationary nurses in the subjects of Nutritional Dietetics as special subject.

Duties of Dietician in U.T., Chandigarh, as contained in Annexure R-4 are as under :

Duties of Dietician in Director Health Services, U.T., Chandigarh :

1. Management of Dietetic department.
2. Management of therapeutic kitchen.
3. Standardization of recipes and supervision of cooking.
4. Teaching dietetic trainees, nursing staff and otherRs.
5. Maintaining duty roster of kitchen staff, leave record, six monthly health

record of Class IV employees and other records required for personal management.

6. Running nutrition clinic and to attend to Dietetic Clinic.

7. Taking surprise visits to ensure proper distribution of food to patients particularly therapeutic diets.

8. Ordering dietary articles (dry and fresh) and supervising the receipts and issues of all supplies.

9. Checking of purchase bills relating to dietary articles in regard to their specification, quantity and rates and passing them on the Accounts Section.

10. Maintenance of proper accounts for all dietary articles and inventory for dead stock articles.

11. Sanitation and cleanliness of kitchen areas.

12. Supervision of fire precautions in the department.

13. Any other duty that may be specified by the Medical Superintendent.

5. Respondents, by way of their written statement and affidavit attempted to make a distinction between the duties of the petitioners in U.T., Chandigarh and the duties of Dietician in the Department of Research and Medical Education, Punjab by asserting that the primary duty for Dietician in the aforesaid department of Punjab is of teaching work, whereas it is not so in the case of U.T., Chandigarh. However, a perusal of duties of Dietician in U.T., Chandigarh, as reproduced herein above, would reveal that the Dieticians in U.T., Chandigarh also perform duty of teaching work, as mentioned at Sr.No. 4 above. In fact, learned counsel for the respondents was fair enough to acknowledge candidly that no such distinction exists.

6. A comparison of qualifications and duties of Dieticians in U.T., Chandigarh, with those in the Department of Research and Medical Education, Punjab would reveal that qualifications and duties of Dieticians in U.T., Chandigarh are broadly of the same kind, rather higher, as those of Dieticians in Punjab. In this context, it would be relevant to notice that the educational qualification prescribed for the post of Dietician (Non-Gazetted) in Punjab is, B.Sc.Home Sc. and for the post of Dietician (Gazetted) in Punjab is, B.Sc.Home Sc. and Diploma in Dietetics, whereas the educational qualification for the post of Dietician in U.T., Chandigarh is, B.Sc.Home Sc. and Diploma in Dietetics or M.Sc.Dietetics and for the post of Senior Dietician in U.T., Chandigarh is, B.Sc.Home Sc. and Diploma in Dietetics or M.Sc.Dietetics with five years" experience as Dietician. Thus, it emerges that qualification for the posts of Dietician and Senior Dietician in U.T., Chandigarh is higher than the qualification for the post of Dietician (Non-Gazetted) and Dietician (Gazetted) in the State of Punjab, respectively. There is also no requirement of any experience for the aforesaid posts in Punjab whereas in the Union Territory of Chandigarh, a candidate with experience is to be preferred for

the post of Dietician and experience of five years as Dietician is mandatory for the post of Senior Dietician. Taking into consideration the educational qualifications and requirement of experience cumulatively, it can be safely concluded that the qualifications for the posts under reference in U.T., Chandigarh, are higher than those for the posts in Punjab, with which they are being compared.

7. Now, coming to the comparative examination of duties and responsibilities of the posts in U.T., Chandigarh with the posts in the State of Punjab, it is evident from the duties contained in Annexures R-3 and R-4 reproduced herein above that most of the duties of the relevant posts in Punjab are of ministerial nature; say for instance, the duties at Serial Nos.1, 2, 3, 4, 5, 7 and 8 of Annexure R-3 are of ministerial nature whereas the duties at Serial Nos.6 and 9 alone are of professional/technical nature. As against this, the duties of the relevant posts in U.T., Chandigarh are mostly professional/technical in nature; as for instance, the duties at Serial Nos.2, 3, 4 and 6 in Annexure R-4 are of professional/technical nature whereas duties at Serial Nos.1 and 7 are partly professional/technical and partly ministerial and the remaining duties at Serial Nos.5, 8, 9, 10, 11 and 12 are purely ministerial in nature. On comparison of the duties, as mentioned in Annexure R-3 and R-4 in the manner aforesaid, we are fully convinced that the duties of the relevant posts in the Union Territory of Chandigarh have more professional content besides being of higher responsibility.

8. In view of the above, we are satisfied that the petitioners are entitled to succeed because Dietician and Senior Dietician in Union Territory, Chandigarh have higher qualifications and duties as compared to those of Dietician (Non-Gazetted) and Dietician (Gazetted) respectively in Punjab. However, there is considerable difference in the pay scales granted to the petitioners, as compared to the pay scales of Dieticians in the Department of Research and Medical Education in Punjab and the petitioners are, thus, at a great disadvantage. Consequently, Senior Dietician in U.T., Chandigarh has to be placed at par with Dietician (Gazetted) in the Department of Research and Medical Education, Punjab, whereas Dietician in U.T., Chandigarh has to be placed at par with Dietician (Non-Gazetted) in the Department of Research and Medical Education, Punjab, in the matter of pay scales, as claimed by learned counsel for the petitioners during the course of arguments.

9. Before parting with the order, it has to be noticed that during pendency of the OA, before the Tribunal, petitioner No. 1 got selected and appointed as Chief Dietician in Government Medical College and Hospital, Sector 32, Chandigarh, with effect from 24.12.1996 and petitioner No. 2 was promoted as Senior Dietician in U.T., Chandigarh with effect from 02.04.1997.

10. For the reasons recorded herein above, the instant writ petition is allowed and the petitioners are held entitled to pay scales at least at par with their counterparts in Punjab, as noticed herein above. Consequently, the respondents are commanded to grant the pay scale of Dietician (Gazetted) of the Department

of Research and Medical Education, Punjab to the Senior Dietician in U.T., Chandigarh and to give pay scale of Dietician (Non-Gazetted) of the Department of Research and Medical Education, Punjab to the Dietician in U.T., Chandigarh. Consequential pecuniary benefits accruing to the petitioners for the period since one year preceding the date of filing of Original Application No. 1017-CH of 1993 before the Tribunal, onwards, are also ordered to be paid, within three months from the date of receipt of certified copy of this order.

11. The writ petition is allowed in the terms as aforementioned.