
(2015) 07 TP CK 0029
In the Tripura High Court
Case No : WP(C) No. 197 of 2010

Sauravi Chakraborty

APPELLANT

Vs

The State of Tripura and Others

RESPONDENT

Date of Decision : 07-07-2015

Acts Referred:

Citation : (2015) 07 TP CK 0029

Hon'ble Judges : S.C. Das, J

Bench : Single Bench

Advocate : S. Deb, Senior Advocate and M.K. Roy, for the Appellant; S. Chakraborty, Addl. G.A., Advocates for the Respondent

Final Decision : Dismissed

Judgement

S.C. Das, J.

1. Heard learned senior counsel, Mr. S. Deb, assisted by learned counsel, Mr. M.K. Roy for the petitioner and learned Addl. G.A., Mr. S. Chakraborty for the respondents.

2. The petitioner was first appointed in the post of Dresser in the Police Department of the Government of Tripura on a fixed pay of Rs. 970/- per month. Respondent No. 4, by an order dated 21.06.1999(Annexure-P/2 to the writ petition), regularized the service of the petitioner in the post of Dresser in the pay scale of Rs. 3200-95-3960-100-4760-105-5600/- w.e.f. 21.05.1999, and accordingly, the petitioner joined the post and was serving as such to the satisfaction of the respondents.

It is the case of the petitioner that the post of Pharmacist and the post of Dresser Gr-III carried same pre-revised pay scale of Rs. 970-2400/- and in the Revision of Pay Rules, 1999(for short, ROP Rules, 1999), the same revised scale was prescribed for the posts of Pharmacist and Dresser Gr-III, i.e. pay scale of Rs. 3200-6030/-. By prescribing same pay scale, ROP Rules, 1999 fundamentally placed both the posts, i.e. the posts of Pharmacist and Dresser at par, though,

according to the petitioner, the qualification prescribed for the post of Dresser was Higher Secondary(+2 stage) with Biology as one of the subject and a training course of Dressing and Plaster Techniques for not less than twelve months, whereas, the qualification for appointment to the post of Pharmacist was Madhyamik and Diploma in Pharmacy, which according to the petitioner was a lesser qualification, whereas, same pay scale was prescribed by ROP Rules, 1999.

It is the grievance of the petitioner that by 15th Amendment Rules, 2004, ROP Rules, 1999 was amended and thereby the scale of Pharmacist was upgraded from Rs. 3200-6030 to Rs. 4200-8650/-, whereas, the pay scale of Dresser, though in the same Department, was not upgraded and thereby an anomaly was created and the petitioner therefore felt discrimination in respect of pay in the same Department.

It is the further case of the petitioner that in the Health and Family Welfare Department the post of Dresser was given pay scale of Rs. 3300-7100/-, whereas, the Dresser in the Police Department was given a lesser scale of Rs. 3200-6030/-.

The petitioner, therefore, made representation and the Police Department by issuing letter dated 26.08.2009(Annexure-P/5 to the writ petition) recommended the case of the petitioner to the Home Department to remove the anomaly and the Home Department, in turn, sent the recommendation to the Finance Department and thereafter Home Department by letter dated 12.11.2009 (Annexure-P/6 to the writ petition) informed the Police Department that Finance Department has regretted the proposal and thereby the petitioner's case was rejected.

The petitioner, therefore, prayed for issuing necessary direction to the respondents for removal of the anomaly and to grant her the pay scale at par with the Pharmacist of the Police Department.

3. Respondents, inter alia, contended that the post of Pharmacist and the post of Dresser are two different identical posts having separate service rules and qualification. For the post of Pharmacist, a person is required to be a diploma holder, whereas, no such qualification is required for a Dresser. A simple training is required for Dresser which cannot be equivalent to a diploma holder. Further, the anomaly alleged to have cropped up was in the year 2004, and in the meantime another pay revision has been made by the State Government in the year 2009 vide ROP Rules, 2009, and hence the petitioner has no cause of action for alleged removal of anomaly occurred in 2004. All the problems in the pay scales already attended by the ROP Rules, 1999, and hence the writ petition should be dismissed.

4. Learned senior counsel, Mr. Deb in course of his submission emphasized that identical pre-revised and revised pay scale was prescribed for the post of Dresser and Pharmacist under the same Police Department. Basic qualification of a Dresser is Higher Secondary in Science group, whereas, the basic qualification of

a Pharmacist is Madhyamik. The Dresser has to undergo a training course of not less than one year and a Pharmacist has to be a diploma holder. While the basic qualification was higher for the post of Dresser her pay scale cannot be lesser than the pay scale of Pharmacist under the same Department while in the ROP Rules, 1999, initially same pay scale was prescribed but subsequently by 15th Amendment of the ROP Rules, 1999 the pay scale of Pharmacist was upgraded whereas the pay scale of Dresser has not been upgraded and as a result the petitioner has been deprived.

5. Learned Addl. G.A., on the other hand, has submitted that the post of Pharmacist and the post of Dresser are different and identical posts and pay rules and qualifications are also different. So, simply because ROP Rules, 1999 prescribed same pay scale, both the posts cannot be equated. State Government at its wisdom by 15th Amendment Rules upgraded the pay scale of Pharmacist of Police Department and many other posts of different Departments but like the post of Dresser in the Police Department so many other posts were left out. Simply because the post of Pharmacist and the post of Dresser were given same pay scale under ROP Rules, 1999, the petitioner cannot, as of right, claim the pay amended scale of Pharmacist.

6. It is an admitted position that ROP Rules, 1999 prescribed the revised pay scale of Rs. 3200-6030/- for the post of Pharmacist at entry level and for the post of Dresser Gr-III at entry level. Pre-revised scale of both the posts was Rs. 970-2400/-. It is, therefore evident that ROP Rules, 1999 considered both the posts at par for the purpose of pay scale. But those are different and identical posts.

State Government at its wisdom brought 15th Amendment to the ROP Rules, 1999 in the year 2004 and by that amendment State Government upgraded pay scale of some of the posts of different Departments including that of some posts of Police Department which include the post of Pharmacist and the pay scale of Pharmacist was upgraded from Rs. 3200-6030 to Rs. 4200-8650/-. The pay scale of Dresser remained unchanged. The post of Dresser and the post of Pharmacist are two identically different posts and the service rules also prescribed different qualifications. So, there may be a similar pay scale prescribed for both the posts which does not necessarily mean that in future if a higher pay scale is prescribed to one of the post similar pay scale has to be prescribed in all other posts of the same pay scale unless it is found that the posts are same though in different Departments. The petitioner though pleaded that the post of Dresser in the Health and Family Welfare Department has been given a higher pay scale, but at the time of argument nothing could be shown that the post of Dresser in the Health and Family Welfare Department was given higher pay scale. Had it been so, the petitioner would have a very good case to claim same pay scale. But since there is nothing to show that the post of Dresser in other Departments carried higher pay scale than that of the post of Dresser in the Police Department, the petitioner's claim of higher pay scale at par with the Pharmacist

cannot gain any ground for consideration. Moreover, the petitioner filed the writ petition in the year 2010 though the alleged anomaly by 15th Amendment occurred in the year 2004, whereas, in the meantime, another pay revision already made by the State Government in the year 2009, and so at such belated stage, I find no justification to interfere in the position which is already settled by ROP Rules, 2009.

7. The writ petition is therefore found to be devoid of merit and hence stands dismissed.

Cost is to be borne by the parties of their own.