

(2010) 11 SHI CK 0137
In the High Court Of Himachal Pradesh
Case No : C.W.P. (T) No. 6288 of 2008

Surindera Gupta

APPELLANT

Vs

State of H.P. and Another

RESPONDENT

Date of Decision : 01-11-2010

Acts Referred:

Citation : (2010) 11 SHI CK 0137

Hon'ble Judges : Kuldeep Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Kuldeep Singh, J.—The petitioner has prayed the following reliefs in the petition:

(i) To direct the respondents to grant selection grade to the petitioners from the dates from which they are found eligible for the same in view of the specific provision of 20% quota for grant of selection Grade to the auxillary nurses and mid-wife in the recruitment and promotion rules of the said posts in the Respondent Department.

(ii) To grant the Pay Scale of Rs. 1500-2640 to the petitioner w.e.f. 1.1.86 and also direct the Respondents to pay all the consequential benefits including the arrears.

(iii) To grant benefit of Proficiency Step up under the Assured Career Progression Scheme with all arrears till date.

2. The case of the petitioners in brief is that the respondents have not granted pay scale of Rs. 1500-2640 to the petitioners w.e.f. 1.1.86 after the revision of the scales on 1.1.1986 in the cadre of Auxillary Nurses and Mid Wives. The petitioner No. 1 was designated Staff Nurse vide office order dated 4.5.1996 after the completion of 20 years service. The petitioner No. 2 was designated as Staff Nurse from 1986 but both the petitioners have not been granted revised pay scale of Rs. 1500-2640 w.e.f. 1.1.1986. The respondents had granted the

pay scale of Rs. 1500-2640 to the petitioners in T.A. No. 2/91 decided by Tribunal on 14.10.1996. It has been submitted that petitioner No. 2 is senior to some of the petitioners in T.A. No. 2/91. The petitioners have also submitted that they have not been given benefit of additional increments by way of Proficiency Step Up after completion of 8 years of service in pursuance to letter dated 14.6.1989 Annexure P-2. It has also been alleged that the petitioners are entitled to grant of next higher scale under the Assured Career Progression Scheme dated 15.12.1998 Annexure P-3.

3. The respondents had contested the petition and have submitted that the petitioners and other similarly situated persons were designated staff nurses after completion of 20 years of their services as Auxillary Nurses and Midwives and were posted in the hospitals to assist the grade "A" staff nurses without any attachment of additional scale. It has also been submitted that scale of Rs. 1500-2640 was allowed to some of the Auxillary Nurses and Midwives who joined in T.A. No. 2/91. The benefit of Proficiency Step Up under the Assured Career Progression Scheme had already been given to the petitioners. This has been denied by the petitioners in the rejoinder.

4. Some of the Auxillary Nurses and Midwives had filed CWP No. 154 of 1983 in this Court which was transferred to erstwhile Tribunal and there it was registered as TA No. 2/91 which was decided on 14.10.1996. The Tribunal in that petition has held that the petitioners who are similarly placed as Smt. Damyanti Jairath are entitled to the scale of Rs. 1500-2640 w.e.f. April 1, 1986. The respondents were directed to give the pay scale of Rs. 1500-2640 to the petitioners in TA No. 2/91. The petitioners in the present petition have pleaded that petitioner No. 2 is senior to some of the petitioners in TA No. 2/91 It has not been denied by the respondents in the reply that petitioner No. 2 is senior to some of the petitioners in TA No. 2/91. The petitioners are similarly situated to the petitioners in TA No. 2/91. Therefore, petitioners are also entitled to pay scale of Rs. 1500-2640 w.e.f. 1.4.1986.

5. Insofar the claim of the petitioners for benefits of Proficiency Step Up and the Assured Career Progression Scheme are concerned, the respondents in the reply have taken the stand that benefit of Proficiency Step Up and the Assured Career Progression Scheme has already been extended to the petitioners. In the rejoinder the petitioners have denied that such benefits have been given to them but denial of the petitioners is not of much significance when respondents themselves have taken stand that such benefits had been given to the petitioners. This stand can be taken by the respondents only when it is the case of the respondents that the petitioners are entitled to the benefits of Proficiency Step Up and Assured Career Progression Scheme as per letters dated 14.6.1989 and 15.12.1998 respectively. The respondents have not taken the stand in the reply that petitioners are not entitled to the benefits of Proficiency Step Up and the Assured Career Progression Scheme.

6. In view of above, the petition is allowed. The respondents are directed to give

pay scale of Rs. 1500-2640 to the petitioners w.e.f. 1.4.1986 within a period of three months from the date of supply of copy of this judgment by the petitioners to the competent authority and release the arrears to the petitioners within further period of three months.

7. With the above observations, the petition stands disposed of, so also the pending applications, if any.