IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI, BENCH NAGPUR

ORIGINAL APPLICATION NO 92 OF 2009

DISTRICT : NAGPUR

1. Smt Vineeta w/o D Kshirsagar ,)
R/o: Opposite Dena Bank)
Dharampeth, Nagpur.)
2. Smt Sushma w/o Kamalkumar)
Chatarjee, R/o : Opp L.A.D college,)
Aasawari Apartment, Shivaji Nagar,)
Nagpur.)...**Applicant**

Versus

1. The State of Maharashtra)
Through its Secretary,)
Department of Public Health,)
Mantralaya, Mumbai 400 032.)
2. State of Maharashtra,)
Through its Secretary,)
Department of Finance,)
Mantralaya, Mumbai 400 032.)
3. Joint Director of Health Services,)
[Health], Directorate of Health,)
Pune 411 001.)

4. Deputy Director of Health Services,)
Nagpur Division, Nagpur.)
5. High Power Committee for)
Removing the Pay Anomaly,)
Through its Deputy Secretary,)
Pay Revision Unit, Finance Dept,)
Room no. 3228 [Extension], 3rd floor)
Mantralaya, Mumbai.)
6. Senior Scientific Officer,)
Bureau of Nutrition, Nagpur.)...**Respondents**

Shri Sachin Khandekar, learned advocate for the Applicant.

Shri P.N Warjurkar, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 10.03.2017

O R D E R

1. Heard Shri Sachin Khandekar, learned advocate for the Applicant and Shri P.N Warjurkar, learned Presenting Officer for the Respondents

2. This Original Application has been filed by the Applicants who are working as Nutritionists in the

Bureau of Nutritionists under the Senior Scientific Officer at that Bureau at Nagpur, who is Respondent no. 6 in the present Original Application. They are seeking parity with the Dieticians working under the Respondent no. 4, i.e. Deputy Director of Health Services, Nagpur Division, Nagpur.

3. Learned Counsel for the Applicants stated that the Nutritionists are appointed under the Lady Nutritionist in the Public Health Institute (Recruitment) Rules, 1991 and the educational qualification for the post is prescribed under Rule 3(b) which reads:-

> "3. Appointment to the post of Lady Nutritionist shall be made by nomination from amongst candidates who:-
>
> (b) possess a Degree in Home Science with a Diploma in Dietetics".

The post of Dietician is governed by the Dietician under the Directorate of Health Services (Recruitment) Rules, 1992, which has the following educational qualifications in Rule 3(ii), which reads:-

> "3. Appointment to the post of Dietician in the Directorate of Health Services shall be made by nomination from amongst candidates, who:-

"3(ii) possess B.Sc (Home Science) degree of a statutory University."

Learned Counsel for the Applicants stated that there is no different between a degree in Home Science and B. Sc (Home Science). Till the 4th Pay Commission, both the posts had identical pay scale, i.e. RS. 1400-2300. Even in the 3rd Pay Commission, both the posts had identical pay scales of Rs 365-760. However, during the 5th Pay Commission, the post of Dietician was given pay scale of Rs. 5000-8000, while for the post of Nutrition the pay scale of Rs. 4500-7000 was provided.

4. Learned Counsel for the Applicants stated that the Applicants had earlier filed O.A no 633/2007 before this Tribunal and by order dated 14.4.2008, this Tribunal has directed the Respondents to take a decision on the representation of the Applicants dated 15.2.1999 within a period of 3 months. Thereafter, the Respondents have taken decision which is communicated to the Applicants by letter of the Respondent no. 1, dated 15.9.2008. It is stated therein as follows:-

"स्त्री पोषाहार तज्ञ या पदाची तुलना वेतन समानीकरण समितीने आपल्या अहवालात केंद्र शासनाकडील कोणत्याही पदाशी केल्याचे आढळून येत नाही. त्यामुळे केंद्र शासनाकडील वरिष्ठ पदांना मंजूर करण्यात आलेल्या वरच्या सुधारित वेतनश्रेणी येथील या पदाशी विहीत करता येणार नाहीत. तसेच उपरोक्त पदाच्या सेवाप्रवेश नियमानुसार शास्त्र शाखेतील पदवी अशी किमान अर्हता आवश्यक नसल्याने राज्य वेतन सुधारणा समितीच्या अहवालाच्या

भाग-२ च्या परिच्छेद ४.११ प्रमाणे वरची वेतनश्रेणी (रु. ५००० - ८०००) देता येणार नाही. आहारतज्ञ या पदासाठी गृह शास्त्रातील पदवी ही किमान अर्हता विहित केली असल्याने त्या पदाला राज्य वेतन सुधारणा समितीच्या अहवालातील भाग-२ परिच्छेद ४. ११ प्रमाणे रु. ५०००-८००० ही सुधारित वेतनश्रेणी देण्यात आली आहे. त्यामुळे या प्रकरणी त्रुटी निवारण्याचा प्रश्न उदभवत नाही."

Learned Counsel for the Applicants stated that the Respondent no. 1 has stated that for the post of Dietician a degree in B. Sc in Home Science is required, while for the post of Nutrition, there is no requirement of a degree in Science. As such, there was no anomaly in the pay scale. However, the Respondent no. 1 has lost sight of the fact that the degree in Home Science is the same as B. Sc (Home Science), which is also a degree in Home Science. Learned Counsel for the Applicants argued that the decision of the Respondent no. 1 is arbitrary and not based on facts and it deserves to be quashed and set aside.

5. Learned Presenting Officer (P.O) argued on behalf of the Respondents that pursuant to the decision of this Tribunal dated 17.4.2008 in O.A no 633/2007, this matter was considered by the Respondent no. 1, who has decided that there is no anomaly in the pay scale of these two posts as the required educational qualification are different. While for the post of Dietician, B. Sc degree in Home Science is required, for the post of Nutritionist, only a degree in Home Science is required. As the

qualifications for the posts are different, there is no question of anomaly or discrimination if different pay scales are provided for these posts.

6. I have carefully gone through the Recruitment Rules for the post of Nutritionists as well as that of Dieticians. It appears that for the post of Nutritionists, in addition to degree in Home Science, a Diploma in Dietetics is also required, while for the post of Dieticians only B. Sc (Home Science) degree is required. Though the Respondent no. 1 has sought to distinguish between these two degrees, I am unable to appreciate this difference. In my considered opinion, there is no difference between a degree in Home Science and that of B. Sc (Home Science). It is also a fact that Nutritionists are required to inspect the work of Dieticians in terms of Action Plan of the Bureau of Nutrition, Nagpur. They are required to have additional qualification of Diploma in Dietetics in addition to the degree in Home Science, which is the same as B. Sc (Home Science). It is also not denied by the Respondents that till 5th Pay Commission, both the posts had the same pay scale. Considering the fact that a Nutritionist is required to have additional qualification of Diploma in Dietetics and required to visit hospital with a view to examine the Dieticians' work, there is no justification to give a lower pay scale for the post of Nutritionists. The decision of the Respondent no. 1 is based on cursory appreciation of the recruitment

rules and it is definitely not based on facts and is perverse.

7. As a result, letter dated 15.9.2008 from the Respondent no. 1 to the Applicants is quashed and set aside. Respondents are also directed to consider the case of the Applicants for fixing their pay scale at par with that of Dieticians in the 5th Pay Commission and consequently in the 6th Pay Commission. This Original Application is allowed accordingly with no order as to costs.

sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Nagpur
Date : 10.03.2017
Dictation taken by : A.K. Nair.

D:\MARCH 2017 JUD NAGPUR\O.A 92.09 seeking parity in pay scale. 03.17.doc