

Roli Srivastava And Another vs State Of U.P. Thru. Addl. Chief Secy. ... on 31 January, 2025

Author: Alok Mathur

Bench: Alok Mathur

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:6794

Court No. - 6

Case :- WRIT - A No. - 1395 of 2025

Petitioner :- Roli Srivastava And Another

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Medical And Health Lko. And 2 Others

Counsel for Petitioner :- Prashant Vikram Singh

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

1. Heard Sri Prashant Vikram Singh, learned counsel for the petitioners as well as learned Standing Counsel for the respondents.
2. Grievance raised by the petitioners in the present writ petition is with regard to grant of Grade Pay of Rs.2800/- which is being denied to them on account of the fact that they have been appointed after 01.12.2011.
3. It has been submitted by learned counsel for the petitioners that in the similar circumstances, this Court has allowed the writ petition filed by Kamal Deep Nirala and others being Writ - A No. 20255

of 2021 (decided on 04.07.2023). It is further submitted that review against order of this Court dated 04.07.2023 has also been rejected and the Special Appeal is pending.

4. It is further submitted by learned counsel for the petitioners that the State Government has complied with the directions of this Court dated 04.07.2023.

5. Learned Standing Counsel on the other hand has opposed the writ petition but could not dispute the aforesaid facts.

6. Accordingly, benefit of judgment and order dated 04.07.2023, passed by this Court in Writ - A No. 20255 of 2021 - Kamal Deep Nirala and Others Vs. State of U.P. Through Additional Chief Secretary, Medical and Health and Others (decided on 04.07.2023), is liable to be extended to the petitioners herein. For the same of convenience, judgment and order dated 04.07.2023, is quoted herein below :-

"1. Heard Shri Sanjay Misra, learned counsel for the petitioners and Shri Ashwani Kumar Singh Rathore, learned Standing Counsel appearing for the State-respondents.

2. The present petition under Article 226 of the Constitution of India has been filed seeking grade pay of Rs.2800/- as is being paid to other similarly placed Health Workers, who were appointed on or before 01.12.2011.

3. The petitioners have been appointed after due selection on the post of Health Worker (Male and Female) in the Health Department, Government of Uttar Pradesh. Admittedly, they have been appointed after 01.12.2011. The petitioners are given same pay scale of Rs.5200-20200/- as is being given to the Health Workers who were appointed before 01.12.2011. The only difference is fixation of grade pay inasmuch as the petitioners are being paid grade pay of Rs.2000/- whereas the similarly placed Health Workers appointed on or before 01.12.2011 are being paid grade pay of Rs.2800/-.

4. Shri Sanjay Misra, learned Counsel for the petitioners submits that paying different grade pay to similarly appointed Health Workers on the ground of difference in their dates of appointment is wholly discriminatory and is in violation of Articles 14 and 16 of the Constitution of India. He further submits that the petitioners are also entitled to be given the grade pay of Rs.2800/- as is being given to the similarly placed Health Workers who were appointed on or before 01.12.2011.

5. Shri Ashwani Kumar Singh Rathore, learned Standing Counsel for the State-respondents submits that the difference in grade pay is being given in pursuance of the government order dated 19.12.2011 which provides that the Health Workers appointed after 01.12.2011 would be given grade pay of Rs.2000/-. This Court asked a specific question to learned Standing Counsel that what was the basis

for paying different grade pay to the Health Workers appointed on or before 01.12.2011 and the Health Workers appointed after 01.12.2011? to which he fairly submits that no reasoning is discernible in the government order except for cut of date for fixing the grade pay of Rs.2000/- instead of Rs.2800/-.

6. This Court finds that the executive instructions of the government order is in violation of Article 14 of the Constitution of India. The Government cannot discriminate in the matter of payment of salary in respect of similarly appointed Health Workers only on the basis of their dates of appointment.

7. In view thereof, the present petition is allowed. The respondents are directed to pay grade pay of Rs.2800/- to the petitioners as is being paid to other similarly placed Health Workers from the date of their appointment. The arrears should be paid to the petitioners within a period of four months from today."

7. In view of the above, benefit of judgment and order dated 04.07.2023, passed by this Court in the case of Kamal Deep Nirala and Others (supra), is also extended to the petitioners herein in same terms.

8. Accordingly, the writ petition is allowed.

9. The respondents are directed to pay Grade Pay of Rs.2800/- to the petitioners as it has been paid to the other similarly situated persons. The arrears thereof shall be paid to the petitioners within next four months from today.

10. The petitioners are directed to provide a copy of this order along with copy of judgment and order dated 04.07.2023 to the respondents for compliance of the directions issued by this Court.

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(Alok Mathur, J.) Order Date :- 31.1.2025 Virendra