

Dr. C. Girijambal vs Govt. Of Andhra Pradesh on 11 February, 1981

Equivalent citations: 1981 AIR 1537, 1981 SCR (2) 782, AIR 1981 SUPREME COURT 1537, 1981 (2) SCC 155, 1981 LAB IC 979, (1981) 2 SERV LJ 206, (1981) 1 SCWR 304, (1981) 2 LAB LN 13, (1981) 1 SERV LR 364, (1981) 43 FAC LR 185, 1981 UJ(SC) 224, (1981) 1 LAB LJ 314, 1981 SCC (L&S) 293

Author: V.D. Tulzapurkar

Bench: V.D. Tulzapurkar, Y.V. Chandrachud

PETITIONER:

DR. C. GIRIJAMBAL

Vs.

RESPONDENT:

GOVT. OF ANDHRA PRADESH

DATE OF JUDGMENT 11/02/1981

BENCH:

TULZAPURKAR, V.D.

BENCH:

TULZAPURKAR, V.D.

CHANDRACHUD, Y.V. ((CJ))

CITATION:

1981 AIR 1537

1981 SCR (2) 782

1981 SCC (2) 155

1981 SCALE (1) 281

CITATOR INFO :

APR 1989 SC 1247 (9)

ACT:

Constitution of India 1950, Article 16-Medical Officers of Dispensaries- Three categories-G.C.I.M., L.I.M. and D.A.M. degree holders-Different pay scale for each category-Whether valid.

Professional services-Principle of equal pay for equal work-Whether can be invoked.

HEADNOTE:

The appellant was selected for the post of Medical Officer in the Local Fund, Ayurvedic Dispensary in the Zilla Parishad. She possessed a Diploma in Ayurvedic Medicine

(D.A.M.). Her salary was fixed in the scale of Rs. 125-220. Her representation to fix her pay in the higher scale had been rejected by the State Government on the ground that only candidates with 'A' class Registration could be given the higher scale of pay.

Under the Andhra Ayurvedic and Homeopathic Medical Practitioners Registration Act, 1956 holders of Diploma in Ayurvedic Medicine (D.A.M.), holders of Graduate of the College of Integrated Medicine (G.C.I.M.) and holders of Licentiate in Indigenous Medicine (L.I.M.) were entitled to class 'A' Registration Certificate. Her application to the Andhra Board of Ayurveda for registration as 'A' class Practitioner was rejected.

Allowing her petition, impugning the action of the Board of Ayurveda, the High Court held that being a person possessing a diploma similar to the G.C.I.M. or L.I.M. she was entitled to be registered in class 'A' and that she should be given all the benefits of the higher pay scale of Rs. 180-320.

The scale of pay of Rs. 180-320 for Medical Officers holding L.I.M. was revised to Rs. 200-400. Sometime later the scales of pay were again revised. The scale of Rs. 200-400 was split into two categories: (i) Rs. 530-1050 for Medical Officers holding L.I.M. and (ii) Rs. 430-800 for other Medical Officers. In the first revision she was given the scale of Rs. 200-400 but under the second revision she was given only the scale of Rs. 430-800.

Her representation to the Government for fixing her pay in the scale of Rs. 530-1050 having not been answered, she moved the Andhra Pradesh Administrative Tribunal which held that she was not entitled to a higher scale as she did not possess the requisite qualifications mentioned in the relevant government order.

Before this Court it was contended on behalf of the appellant that: (1) Medical Officers holding the degrees of G.C.I.M. or D.A.M. perform the same functions and discharge the same duties in dispensaries and that on the principle of equal pay for equal work, the appellant should be given the pay scale meant

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for Medical Officers holding G.C.I.M. because she was entitled to class 'A' Registration Certificate and (2) since she had been fixed in the scale of Rs. 200-400 under the first revision she should have been fixed under the second revision in the scale of Rs. 530-1050 alongwith holders of L.I.M.

Dismissing the appeal,

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HELD : 1. The contention that because her diploma was regarded as similar or equivalent to G.C.I.M. for registration purposes she should be given the pay scale available to the holder of G.C.I.M. was rightly rejected by the tribunal. [787 E]

2. The principle of equal pay for equal work cannot be invoked invariably in every kind of service. It cannot be invoked in the area of professional services. [786 F]

In the instant case by reason of the fact that Medical Officers holding the qualifications of G.C.I.M. or L.I.M. or D.A.M. were placed incharge of Zilla Parishad dispensaries, they cannot be treated on par with each other. If the State Government or the Zilla Parishads prescribes different scales of pay for each category of Medical Officers no fault could be found with such prescription. [786 H-787 A]

3. The similarity or equality conferred on holders of G.C.I.M., L.I.M. and D.A.M. was for the purposes of registration as practitioners of modern medicine under the Registration Act, 1956, and not in the matter of proficiency. The High Court in its order made it clear that for the purposes of registration under the Registration Act the appellant as a holder of D.A.M. was similar to G.C.I.M. and was entitled to class 'A' Registration Certificate. That these three categories were not equated in the matter of proficiency is borne out from the fact that right from the beginning the pay scales prescribed for these categories were different, highest pay scale being available to holders of G.C.I.M. the next lower being available to holders of L.I.M. and the lowest to medical practitioners other than these two categories. [787 C-D]

4. When the first revision was undertaken, the appellant was put in the pay scale of Rs. 200-400, the one which was also given to Medical Officers holding L.I.M. because under the order of the High Court the appellant had been fixed initially in the scale of Rs. 180-320 and when that pay scale was revised to Rs. 200-400 she was required to be given that revised scale. When the second revision was undertaken it was open to the State Government to split the scale into two categories : one meant for Medical Officers holding L.I.M. and the other for Medical Officers other than L.I.M. Since the appellant was not a holder of L.I.M. but fell in the other category she was properly fixed in the lower revised pay scale of Rs. 430-800. [787 G-788 A]

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1173 of 1979.

Appeal by Special Leave from the Judgment and Order dated 18-8-1977 of the Andhra Pradesh Administrative Tribunal, Hyderabad in Representation Petition No. 286/77.

M. K. Ramamurthi, Miss R. Vaigai and J. Rama Murthi for the Appellant.

G. N. Rao for the Respondent.

The Judgment of the Court was delivered by TULZAPURKAR, J.-This appeal by special leave raises the question about the eligibility of the appellant to a higher pay scale under G.O.M. No. 574 P.R. dated October 20, 1975 with effect from November 1, 1974.

The facts giving rise to the question may be stated :

the appellant passed Diploma in Ayurvedic Medicine (DAM) from Kerala University in the year 1962, having studied this course for four years and nine months with one more year of House Surgeoncy. Besides Ayurvedic Medicine this course consisted of Modern Medicine also. This Diploma is also included in the Second Schedule to the Indian Medicine Central Council Act, 1970. According to the appellant the Government of Kerala had treated the holders of D.A.M. on par with holders of G.C.I.M. (Graduate of the College of Integrated Medicine) and L.I.M. (Licentiate in Indigenous Medicine) in regard to registration of medical practitioners in modern medicine, and all the three were also entitled to Class `A' Registration Certificate under the Andhra Ayurvedic and Homeopathic Medical Practitioners Registration Act, 1956 (hereinafter called `the Registration Act').

In response to the advertisement published by the Zilla Parishad, Nellore the appellant applied for appointment to the post of Medical Officer, Local Fund Ayurvedic Dispensary, Duggarajapatnam, Nellore District and after an interview on being selected she joined the duties of the post on December 26, 1963. It appears that her salary was fixed in the pay scale of Rs. 125-220, though the post carried a higher salary according to the advertisement [in fact the advertisement mentioned two pay scales for the post-(i) Rs. 220-425 for candidates holding the qualification of G.C.I.M. with House Surgeoncy and (ii) Rs. 180-320 for candidates holding the qualification of L.I.M.] The appellant, therefore, made representations to the concerned authorities saying that she was entitled to a higher pay scale but the authorities refused to give her the higher pay scale on the ground that only candidates with `A' Class Registration could be given the scale of Rs. 180-320 and the pay scale of Rs. 125-220 was for candidates holding qualifications other than `A' Class Registration. The appellant, therefore, applied to the Andhra Board of Ayurveda on payment of requisite fees to register here as `A' Class Practitioner and on their refusal to do so she filed writ petition No. 3507 of 1969 in the Andhra Pradesh High Court. On a consideration of the provisions of the Registration Act the High Court held that the appellant being a person who possessed a Diploma similar to G.C.I.M. or L.I.M. was entitled to be registered in Class `A' and the High Court further directed the Zilla Parishad that the appellant be given the higher pay-scale of Rs. 180-320. The High Court's directions were carried out and the appellant was given all the benefits of the higher scale of Rs. 180-320 with retrospective effect from the date of her appointment.

It appears that the pay scales of Medical Officers in Zilla Parishad and Panchayat Samitis were revised twice, once with effect from March 19, 1969 under G.O.M. No.

708 dated December 11, 1970 and second time with effect from November 1, 1974 under G.O.M. No. 574 P.R. dated October 20, 1975. As per G.O.M. No. 708 the then existing scale of Rs. 220-425 (for M.Os. holding G.C.I.M.) was revised to Rs. 250-500 and the then existing scale of Rs. 180-320 (for M.Os. holding L.I.M.) was revised to Rs. 200-400. Under G.O.M. No. 574 the then existing scale of Rs. 250-500 was again revised to Rs. 530-1050 and the existing scale of Rs. 200 to 400 was again revised by splitting the revision into two categories

(i) Rs. 530 to 1050 for M.Os. holding L.I.M. and (ii) Rs.

430-800 for other Medical Officers. Under the first revision the appellant was given the scale of Rs. 200-400 and when the second revision was undertaken she was fixed in the revised pay scale of Rs. 430-800 with effect from November 1, 1974. She represented to the Government that she should be given the scale of Rs. 530-1050 as was done for M.Os. holding either G.C.I.M. or L.I.M. but she did not receive any reply from the Government whereupon the appellant filed a Representation Petition No. 286 of 1977 before the Andhra Pradesh Administrative Tribunal seeking the relief of revised pay scales contending that since in the earlier writ petition No. 3507 of 1969 the High Court had accepted that her qualifications were similar or equivalent to holders of G.C.I.M. which entitled her to Class 'A' Registration, she was entitled to the scale of pay meant for Medical Officers holding G.C.I.M. from the date of her appointment and the benefits of all the revisions in that scale. Alternatively she contended that in any event at the time of the second revision she should have been treated on par with holders of L.I.M. and not lower and should have been fixed in the scale of Rs. 530-1050 and not Rs. 430-800. The Tribunal rejected the Representation Petition holding that the appellant was not entitled to higher scale as she did not possess the requisite qualifications mentioned in the G.O.M. 574 dated October 20, 1975, and hence the appeal to this Court.

Counsel for the appellant reiterated before us the same two contentions which were urged before the Tribunal. In the first place counsel pointed out that in the earlier writ proceedings the High Court had accepted the position that the appellant's qualifications were similar to the holders of G.C.I.M. and like the latter she was entitled to Class 'A' Registration and he, therefore, urged that the appellant was entitled to the pay scale meant for Medical Officers holding G.C.I.M. right from the date of her appointment, namely, December 26, 1963, and the benefits of all the revisions of that scale. In support of this contention counsel sought to invoke the principle of equal pay for equal work as, according to him, Medical Officers holding either G.C.I.M. or D.A.M. perform the same functions and discharge the same duties in dispensaries run by Zilla Parishads and Panchayat Samitis. Secondly, in the alternative counsel contended that in any event the appellant could not be regarded as holder of any lower qualification than a Medical Officer holding L.I.M. inasmuch as under the first revision effected by G.O.M. No. 708 both had been fixed in the revised pay scale of Rs. 200-400 and, therefore, when the second revision was effected under G.O.M. No. 574 the appellant should have been fixed in the revised scale of Rs. 530-1050 alongwith holders of L.I.M. and there was no justification for giving her a lower revised scale of Rs. 430-800. For the reasons which we shall presently indicate it is not possible to accept either of these contentions.

Dealing with the first contention we would like to observe at the outset that the principle of equal pay for equal work cannot be invoked or applied invariably in every kind of service and certainly it cannot be invoked in the area of professional services when these are to be compensated. Dressing of any injury or wound is done both by a doctor as well as a compounder, but surely it cannot be suggested that for doing this job a doctor cannot be compensated more than the compounder. Similarly, a case in Court of law is argued both by a senior and a junior lawyer, but it is difficult to accept that in matter of remuneration both should be treated equally. It is thus clear that in the field of rendering professional services at any rate the principle of equal pay for equal work would be inapplicable. In the instant case Medical Officers holding the qualification of G.C.I.M., or the qualification of L.I.M. or the qualification of D.A.M., though in charge of dispensaries run by Zilla Parishads, cannot, therefore, be treated on par with each other and if the State Government or the Zilla Parishads prescribe different scales of pay for each category of Medical Officers no fault could be found with such prescription. The gravamen of the appellant's contention has been that in earlier proceedings the High Court had accepted the position that a holder of D.A.M. (like the appellant) was similar to the holder of G.C.I.M. and as such the appellant alongwith the holders of G.C.I.M. was entitled to Class 'A' Registration Certificate and, therefore, in the matter of remuneration she should have been treated in the same manner as the holder of G.C.I.M. all throughout her service. However, it needs to be clarified that the similarity or equality conferred on holders of G.C.I.M., L.I.M. and D.A.M. was for the purpose of their registration as practitioner of modern medicine under the Registration Act, 1956, all being put under Class 'A' Registration and not in the matter of proficiency. The High Court in its order had also made it clear that for the purposes of registration under the Registration Act the appellant as a holder of D.A.M. was similar to G.C.I.M. and was entitled to Class 'A' Registration Certificate. That these three categories were not equated in the matter of proficiency will be amply borne out by the fact that right from the beginning the pay scales prescribed for these categories were different, highest pay scale being available to holders of G.C.I.M. the next lower being available to holders of L.I.M. and the lowest to Medical Practitioners other than G.C.I.M. and L.I.M. The contention of the appellant, therefore, that because her Diploma was regarded as similar or equivalent to G.C.I.M. for registration purposes she should be given the pay scale that was available to the holder of G.C.I.M. cannot obviously be accepted and in our view, it was rightly rejected by the Tribunal.

The alternative contention also is liable to be rejected on the same basis. It is true that when the revision under G.O.M. No. 708 was undertaken the appellant was put in the pay scale of Rs. 200-400 which was also the pay scale prescribed for Medical Officers holding L.I.M. but that was because under the earlier order of the High Court the appellant had been fixed initially in the pay scale of Rs. 180-320-the pay scale also meant for Medical Officers holding L.I.M. and when that pay scale of Rs. 180-320 was revised to Rs. 200-400 she was required to be given that revised scale. When the second revision was undertaken as per G.O.M. No. 574 it was perfectly open to the State Government to split the revision into two categories, one meant for Medical Officers holding L.I.M. and the other for Medical Officers other than L.I.M. as has been done in the instant case and since the appellant was not a holder of L.I.M. but fell in the other category she was, in our view, properly fixed in the lower revised pay scale of Rs. 430-800.

As no other contention was urged the appeal is dismissed, but we make no order as to costs.

N.V.K.

Appeal dismissed.