

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Dr. Subesh Kumar Das**

Case No – OA 135 OF 2015

Tanushree Saha & Ors. vs The State of West Bengal & Ors.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
16 21.08.2019	<p>For the Applicants : Mrs. S. Mitra, Learned Advocate.</p> <p>For the Respondent : Mr. S. Ghosh, Learned Advocate. Mrs. S. Agarwal, Learned Advocate.</p> <p>The applicants have prayed for direction upon the respondents for grant of higher scale of pay with retrospective effect.</p> <p>The applicants have been working as Public Health Nurses (in short, PHN) in the Department of Health & Family Welfare, Government of West Bengal. The contention of the applicants is that the eligibility for entry into service as PHN are (i) passing of Higher Secondary Examination [10+2], (ii) completion of GNM course for 3½ years and (iii) completion of training of ten months in Nursing Education and Administration. The further contention of the applicants is that the eligibility for entry into the service of Health Supervisors (Female) are (i) passing of Madhyamik Examination, (ii) completion of ANM course for 1½ years and (iii) completion of in service training course for six months. The grievance of the applicants is that while the Health Supervisors (Female) are getting scale no. 9, the applicants are also getting the same scale no. 9, in spite of the fact that they supervise the work of the Health Supervisors. According to the applicants, they have been discriminated with the Health Supervisors who are getting same scale of pay with</p>	

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the applicants.

Mrs. Mitra, Learned Counsel for the applicants, contends that the applicants having higher educational qualification and longer period of training than the educational qualification and training of Health Supervisors (Female) should be given higher scale of pay than the scale of pay given to the Health Supervisors (Female). She further submits that the representation submitted by the applicants for grant of higher scale of pay before the respondent nos. 2 and 3 on April 6, 2010 has not yet been considered and disposed of. On the other hand, Mr. Ghosh, Learned Counsel representing the state respondents, submits that the cadre of Health Supervisor (Female) is separate from the cadre of PHN and as such the applicants belonging to the cadre of PHN cannot claim higher scale of pay than the scale of pay of Health Supervisors only on the ground of having more educational qualification and training, particularly when the question of discrimination of the applicants with the Health Supervisors does not arise.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the applicants had to acquire more educational qualification and longer course of training for joining in the post of PHN than the Health Supervisor (Female) who are getting same scale of pay with the applicants. The scale of pay given to the Health Supervisors is scale no. 9 and the scale of pay given to the

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applicants is also scale no. 9. It appears from the representation submitted by the applicants that the nurses belonged to the cadre of GNM staff nurse also having almost same educational qualification and training as that of the applicants are also getting scale no. 9. In the absence of any discrimination we cannot persuade ourselves to hold that the applicants should be granted higher scale of pay for having higher educational qualification and longer period of training as eligibility for appointment to the post of PHN. The issue for grant of higher scale of pay to the applicants for acquiring higher educational qualification and longer course of training is a matter of policy of the State Government. The Tribunal cannot interfere by giving direction to the state respondents to grant higher scale of pay to the applicants only because the eligibility criteria for entry into service of the applicants is by way of acquiring higher educational qualification and longer course of training than the GNM staff nurse or Health Supervisors (Female). However, the applicants are at liberty to pursue their remedy through proper channel by taking up the issue of granting higher scale of pay before the Pay Commission to be set up by the State Government.

With the above direction, the original application stands **disposed of**.

Let a plain copy of this order be supplied to both parties.

Sanjib

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

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