

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

204

**CWP No. 19685 of 2011(O&M)
Date of decision: 15.09.2016**

Ashok Kumar and others

.... Petitioners

Versus

Union of India and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Rajeev Anand, Advocate for the petitioners.

Ms. Anita Balyan, Advocate for the respondents.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioners have prayed for quashing the order dated 02.12.2010 and 28.06.2011 vide Annexure P5 and P8 respectively and further sought for direction to the respondents to implement the recommendations of the Fast Track Committee notified on 18.11.2009 (Annexure P2).

2. The petitioners are stated to be working as Pharmacists in the BSF. On 18.11.2009, Annexure P-2 was issued by the Ministry of Finance by which the Pharmacists who are in the grade pay of Rs.2800 in the pay band PB-1 after completion of 2 years of service they would be granted non-functional up-gradation to the next higher grade pay of Rs.4200 in the pay band PB-2. Annexure P2 is not restricted to any department. It is in general. In other words, it is applicable to the Pharmacist who are working in the BSF also. Consequently, Annexure P2 was extended to the petitioners who are working as Pharmacist in the BSF w.e.f. 01.01.2006. On 02.11.2010

extending the benefits of Rs.4200 pursuant to Annexure P2 is sought to be withdrawn and the Pharmacists who are working in BSF are entitled for Finance up-gradation under MACP. Consequently, the petitioners' pay has been modified to the extent that instead of extending Rs.4200 w.e.f. 01.01.2006 has been postponed to 11.01.2011. The petitioner is stated to have submitted representation and the same has been rejected on 28.06.2011. Thus, the petitioners are aggrieved by the Annexures P5 and P8.

3. Learned counsel for the petitioners submitted that Annexure P-2 is a general order passed by the Ministry of Finance. The same would be applicable to such of the Pharmacists who are working in BSF also. Thus, Annexure P2 has been implemented and pay of Rs.4200 has been extended w.e.f. 01.01.2006. Abruptly, on 02.12.2010, the respondents have withdrew the extended monetary benefit under Annexure P2 issued by the Ministry of Finance without giving notice and no reasons have been assigned in the communication dated 02.12.2010. Therefore, the impugned action of the respondents are liable to be set aside.

4. Per contra, learned counsel for the respondents submitted that there is no infirmity in the withdrawal of the extended benefits vide Annexure P2 for the reasons that service conditions of the Pharmacists in BSF is different from Pharmacists in CGHS. Therefore, it is permissible in not extending monetary benefits. It was further submitted that Pharmacist in BSF would get other benefits like various allowances while discharging the post of Pharmacist in the BSF.

5. On the other hand, Pharmacists in CGHS would not get similar benefits on par with Pharmacists who are all working as Pharmacist in

BSFs. Therefore, there is a difference in extending the Fast Track Committee of the Ministry of Finance relating to extending the benefit of Rs.4200 to the Pharmacists in CGHS.

6. Heard learned counsel for the parties.

7. Annexure P2 dated 18.11.2009 by which pay of Rs.4200 has been extended to the Pharmacists after completion of 2 years of service irrespective of any department and it is not restricted to CGHS. Thus, the Pharmacists who are working in BSF are also entitled to benefit of Annexure P2. No sufficient reasons have been shown before withdrawing the benefit vide Annexure P2 and in Annexure P5 dated 02.12.2010 and it is without notice to the likely to be affected Pharmacists whose pay would be reduced and modified that they would be getting MACP after completion of 10 years of service. The impugned actions are civil consequences. Without hearing the affected parties like the petitioners, the respondents have taken action to modify the pay extended after completion of 2 years to that of 10 years and further ordering recovery. Therefore, the impugned action Annexures P5 and P8 are set aside.

8. The respondents are directed to reconsider the matter after giving due notice to the likely to be affected Pharmacists like the petitioners. After receipt of explanation from them, necessary order be passed. With that liberty to the parties, the petition stands disposed of.

15.09.2016

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No