

CWP No. 18733 of 2014

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

CWP No. 18733 of 2014

Date of Decision: 19.08.2016

Dr. S.C. Aneja and others

... Petitioner

V/s.

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. H.K. Brinda, Advocate,
for the petitioners.

Ms. Vandana Malhotra, Addl. A.G., Punjab.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest?*

KULDIP SINGH. J. (Oral)

Brief facts of this case are that the petitioners were retired on attaining the age of superannuation while working as an Assistant Director, Animal Husbandry Directorate of Punjab on different dates between 2004 to 2010. The petitioners challenge the notification dated 20.05.2011 (*Annexure P-8*) vide which the Non Practicing Allowance (NPA) was allowed to the Veterinary Doctors w.e.f. 01.07.2011. The claim of the petitioners is that it should have been given w.e.f. 01.01.2006 i.e. the date when the report of 5th Pay Commission was implemented.

The short history is that the PCMS Doctors were granted NPA whereas the same was not extended to the Ayurvedic, Homeopathic and Veterinary Doctors. The demand was raised before the 5th Pay Commission which in para 6.69 made recommendation for grant of NPA to the Ayurvedic,

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Homeopathic and Veterinary Doctors at the rate of 25% of the basic pay on the Central Government pattern as allowed to the PCMS Doctors. Accordingly, the Government issued the notification dated 20.05.2011 (*Annexure P-8*) whereby while accepting the recommendation of 5th Pay Commission, NPA was allowed to the Veterinary Doctors, having certain qualification w.e.f. 01.07.2011. This is not acceptable to the petitioners who claim that it should be implemented w.e.f. 01.01.2016.

I have heard learned counsel for both the parties.

The contention of the learned counsel for the petitioner is that the said notification dated 20.05.2011 (*Annexure P-8*) is discriminatory. The reference has been made to the notification dated 14.09.2009 (*Annexure P-6*) vide which the NPA @ 25% of the revised basic pay in the revised pay structure was continued to be paid to the Doctors working in the Department of Health and Family Welfare.

It is argued that all the set of Doctors are performing the same nature of duties. In case of Doctors working in the Department of Health and Family Welfare vide notification dated 23.01.2010 (*Annexure P-7*), Rule 15 (A) was newly inserted by way of amendment in the Punjab Civil Medical (Services Group-A) Rules, 1972 vide which the NPA was made applicable w.e.f. 24.03.1972 or from the date a person became member of the service later on, as the case may be.

I am of the view that the case of PCMS Doctors stands on different footing. They are already being granted NPA under the statutory Rules framed by the Punjab Civil Medical (Services Group-A) Rules, 1972. However, in the case of the petitioners-Veterinary Doctors, no NPA was being allowed. It was allowed for the first time by accepting the recommendations of 5th Pay Commission vide

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notification dated 20.05.2011 (*Annexure P-8*). While granting NPA, the Government has the prerogative to fix the cut-off date, looking into all the aspects of the matter including financial position of the Government. Therefore, the Government while granting the NPA to the Veterinary Doctors for the first time fixing cut-off date i.e. 01.07.2011 cannot be called disparity with the PCMS Doctors. Since, fixing the cut-off date for grant of NPA is the prerogative of the Government, therefore, this Court is not to interfere with the same.

In view of the above, the present petition stands dismissed.

August 19, 2016

Suresh Kumar

**[KULDIP SINGH]
JUDGE**

Whether speaking / reasoned

✓
Yes / No

Whether Reportable

✓
Yes / No