

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) NO. 5958 OF 2016

Dr. Gaurishankar Patel, S/o Minketan Patel, aged about 60 years, presently posted and working as Ayurved Medical Officer, Speciality Clinic, Primary Health Centre, Barhe Bhandar, Block Pussore, District Raigarh (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Public Health & Family Welfare, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station, Naya Raipur, District Raipur (C.G.)
2. Under Secretary, Department of Public Health & Family Welfare, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station, Naya Raipur, District Raipur (C.G.)
3. Director, Directorate of AYUSH Chhattisgarh, Indrawati Bhawan, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur (C.G.)
4. District Ayurved Medical Officer, AYUSH, Opp. Collectorate, District Raigarh (C.G.)

... Respondents

For Petitioner	:	Mr. Dhani Ram Patel, Advocate.
For Respondents	:	Mr. S.P. Kale, Dy. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

30/01/2017

1. The present writ petition under Article 226 of the Constitution of India has been filed by the Petitioner seeking for a relief of grant of seniority and time bound pay-scale with effect from 8.6.1987 as also for fixing his pay-scale in the scale of 15600-39100+7600 (Grade Pay).
2. Learned Counsel for the Petitioner submits that the Petitioner was initially appointed as Vaidya, presently known as Ayurved Medical Officer, at Janpad Panchayat Sarangarh. The erstwhile State of Madhya Pradesh vide order dated 1.9.1983 resolved to take over all the Ayurvedic dispensaries which remained under the Janpad Panchayats and also to absorb the services of all the employees as Government servants. According to the Counsel for the Petitioner, since the Petitioner was working under the Janpad Panchayat and he was subsequently taken into the services of the

Government, the past services rendered by him should also have been taken into consideration for the purpose of fixing of his pay-scale and for grant of seniority and other benefits.

3. Learned Counsel for the Petitioner further submits that initially a petition was filed before the State Administrative Tribunal which was registered as Original Application No. 736 of 1997 which stood disposed of vide order dated 7.11.1998, whereby the Tribunal had asked the State Government as to why the Petitioner shall not be entitled for the regular pay-scale. Meanwhile, because of the reorganization and the creation of the State of Chhattisgarh the Petitioner's services were allocated to the State of Chhattisgarh and the Petitioner made efforts for regularization of his pay-scale and for grant of consequential benefits. The State of Chhattisgarh had decided to absorb the services of the employees at their respective posts and in their respective scales. Meanwhile, the case which was filed before the State Administrative Tribunal got transferred to the High Court where it was registered as Writ Petition (S) No. 1536 of 2005. The said writ petition was disposed of by this Court on 21.7.2006, with a direction to the Petitioner to make a detailed representation to the authorities and the authorities in turn were directed to consider and decide the claim of the Petitioner. Subsequently, vide order dated 20.8.2009 the Respondents absorbed the services of the Petitioner as an Assistant Ayurved Medical Officer with effect from 3.7.2009, which was subjected to challenge in Writ Petition (S) No. 6138 of 2009. The said writ petition along with other connected writ petitions were disposed of on 16.7.2013, wherein it was observed by this Court that the Petitioner shall be entitled for absorption as Ayurved Medical Officer with notional seniority for the purpose of pension and other benefits. It was also observed that the Petitioner shall be entitled for difference of salary with effect from the date of filing of the petition till they are appointed on the post of Ayurved Medical

Officer. However, though the order of the High Court was complied with but the Petitioner was denied grant of seniority and time bound pay-scale by counting his seniority with effect from 8.6.1987. It is for this reason that the present writ petition has been filed.

4. The Respondents in the instant case have filed their reply wherein they have very categorically submitted that they have granted the Petitioner the benefits of the first Krammonati vide order dated 7.10.2015. So far as the grant of time bound pay-scale is concerned, the Respondents in their reply have categorically submitted that the matter is pending consideration before the Government as the matter has been referred to the Government by the Director, Directorate of Ayush. It has also been stated in the reply that a specific committee has also been constituted for taking a decision in the case of the Petitioner and other similarly situated persons. It has been further stated in the reply in paragraph 11 that immediately on the decision of the State Government, the amount payable to the Petitioner shall be released to him at the earliest.

5. Today, in compliance of the order of this Court, dated 20.12.2016, the Respondent No.3, Dr. G.S. Badeshe, the Director, Directorate of Ayush, Raipur, is present before this Court. On a specific query being put to the Director, he admits the fact that the Petitioner and the other similarly placed persons are entitled for time bound pay-scale and that their case is under active consideration at the Government level and finalization in this regard is likely to take place very soon within a period of 90 days. Respondent No.3 and the Deputy Advocate General submit that in all probability the Petitioner's case shall be favourably decided within the said period of 90 days.

6. Since the petition has been filed only for a direction to the Respondents to grant time bound pay-scale to the Petitioner and in reply, the State Government having accepted the fact that the case of the Petitioner is under

consideration before the State Government and a committee has been constituted in this regard, this Court is of the opinion that no fruitful purpose would be served in keeping the petition pending any longer.

7. Accordingly, the writ petition is disposed of, with a direction to the Respondents particularly to Respondent No.3, to ensure that the case and the claim of the Petitioner for grant of time bound pay-scale shall be finalized at the earliest preferably within a period of 90 days as has been stated in the preceding paragraph.

8. With the aforesaid direction, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge