

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

CWP No. 6389 of 2016
Date of Decision: 22.02.2017

DR. DAMANDEEP KAUR

... Petitioner

VS.

STATE OF PUNJAB & OTHERS

...Respondents

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH.**

Present: Mr. Amit Mehta, Advocate,
 for the petitioner.

 Mr. R.S. Pathania, DAG, Punjab.

KULDIP SINGH, J (ORAL)

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India praying for issuance of writ in the nature of mandamus for directing respondents to grant proficiency step up after 14 years of service w.e.f. 02.01.2003 alongwith interest. The prayer has also been made for issuance of writ of certiorari for setting aside the order dated 03.08.2015 (*Annexure-13*) vide which the claim of the petitioner for grant of placement scales was rejected.

Brief facts of this case are that the petitioner joined as Medical Officer in the Department of Health and Family Welfare, Punjab on 02.01.1989. The petitioner was granted proficiency step ups on completion of four and nine years of service w.e.f. 01.01.2002 and 01.01.2007 respectively. She was also given 14 years placement and proficiency step up w.e.f. 01.01.2004 but the same was withdrawn vide order dated 13.12.2012.

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The petitioner claims that she has good service record and no adverse remarks were ever conveyed to her, therefore, the impugned order dated 03.08.2015 (Annexure P-13) is illegal and liable to be quashed.

It also comes out that the petitioner has earlier approached this Court by way of writ petition bearing No. CWP No. 27309 of 2013, in which this Court while setting aside the impugned order dated 20.10.2013 withdrawing proficiency step up granted on completion of 14 years of service, directed the respondents to hear the petitioner and thereafter, pass the fresh order. Thereafter, the respondents passed an order dated 03.08.2015 (*Annexure-13*) whereby the benefit of proficiency step up on completion of 14 years of service was declined.

I am of view that proficiency step up on completion of 4, 9 and 14 years of service is to be allowed subject to the overall service record of the employee being satisfactory. The satisfactory record means that 50% of the ACRs of the employee should be good and out of last three ACRs, at least two should be good. The respondents in the impugned order have reproduced the ACRs of the petitioner which are as under: -

<i>YEAR</i>	REMARKS	<i>YEAR</i>	REMARKS
<i>1989-90</i>	AVERAGE	<i>2000-01</i>	GOOD
<i>1990-91</i>	SPECIAL REPORT	<i>2001-02</i>	NRC
<i>1991-92</i>	SPECIAL REPORT	<i>2002-03</i>	GOOD
<i>1992-93</i>	AVERAGE	<i>2003-04</i>	GOOD
<i>1993-94</i>	AVERAGE	<i>2004-05</i>	GOOD
<i>1994-95</i>	NRC	<i>2005-06</i>	GOOD
<i>1995-96</i>	AVERAGE	<i>2006-07</i>	GOOD

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<i>1996-97</i>	NRC	<i>2007-2008</i>	GOOD
<i>1997-98</i>	NRC		
<i>1998-99</i>	NRC		
<i>1999-2000</i>	VERY GOOD		

After considering the said reports, it comes out that the proficiency step up on completion of four years of service was granted to the petitioner w.e.f. 01.01.2002 instead of 01.01.1996 and proficiency step up on completion of nine years of service was granted w.e.f. 01.01.2007.

In the impugned order it is stated that as per the instructions of the Government, the petitioner does not fulfill the criteria and is not entitled to the grant of placement scale on completion of 14 years of service.

I have heard the learned counsel for both the parties and have carefully gone through the case file.

It comes out that the petitioner who had joined the service in the year 1989 has not challenged any order vide which he was given proficiency step ups on completion of four and nine years of service w.e.f. 01.01.2002 and 01.01.2007 respectively instead of earlier dates. Therefore, the said orders have become final. It also comes out that the petitioner sought voluntary retirement in the year 2010. She did not complete five years of service from 01.01.2007 so she was not entitled for higher placement scale.

Learned counsel for the petitioner has argued that the special report and Non Report Certificate (NRC) of the petitioner cannot be treated as adverse reports, therefore, the said ACRs are to be treated as “Good” and accordingly, ACP is to be released.

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However, this Court is of the view that since, the order granting ACP on completion of four years of service from the later date, have not been challenged and from the date of grant of ACP on completion of 9 years of service i.e. w.e.f. 01.01.2007, the petitioner does not have the additional service of five years to become entitled to 14 years proficiency step up, having sought voluntary retirement in the year 2010, therefore, there is no infirmity and illegality in the impugned order. Consequently, the present petition stands dismissed.

February 22, 2017

Suresh Kumar

(KULDIP SINGH)
JUDGE

Whether speaking / reasoned	:	✓ Yes	/	No
Whether Reportable	:	Yes	/	✓ No