

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP NO. 24572 OF 2015
DECIDED ON: MARCH 06, 2018

DR. SHAM LAL GARG

...PETITIONER...

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Ravi Verma, Advocate
for the petitioner.

Ms. Deepali Puri, Additional Advocate General, Punjab.

JASPAL SINGH, J.(Oral)

By virtue of instant petition preferred under Article 226/227 of the Constitution of India, the petitioner has sought issuance of a writ in the nature of mandamus, directing the respondents to grant the benefit of proficiency step-up/ACP scales w.e.f 30.11.2000 i.e. after the completion of 24 years of regular satisfactory service on the post of Ayurvedic Medical Officer in terms of ACP Scheme issued vide notification dated 25.09.1998 (Annexure P-1), after counting the period from 10.06.1989 to 13.11.1991, which has been ordered duty period as per order dated 11.02.2015 (Annexure P-2) and all consequential benefits with interest.

2. Undisputably, during the service, on account of certain aspects, the petitioner was placed under suspension and he remained so for the period w.e.f. 10.06.1989 to 13.11.1991, which has now been treated as duty period vide order

dated 11.02.2015 (Annexure P-2). Accordingly, the revised pay in pursuance of order dated 11.02.2015 has already been fixed and benefit of annual increment has already been granted. Similarly, proficiency step up on completion of 16 years of service, which was also due on 02.01.1995 and arrears of difference of pay have already been paid to the petitioner. However, the petitioner has not been granted the benefit of proficiency step up/ACP scale on completion of 24 years of service. In fact, the petitioner stands completed the 24 years of service in pursuance of order dated 11.02.2015 (P-2) which is being declined to the petitioner simply on account of the reason that the ACRs pertaining to the year(s) 1995-96, 1996-97, 1997-98, 1998-99, 1999-2000, 2000-01 and 2001-02 are not available but for the said reason, the petitioner cannot be penalized and made to suffer especially in the circumstances that the department is obliged to maintain the service record of an employee. Otherwise also, in the absence of ACRs, which is the duty of the respondent to maintain record, the petitioner cannot be declined the relief by considering it to be adverse. Rather, in the event of non-availability of ACRs for the above referred period, the same should be treated in favour of the petitioner and not in adverse to him.

3. Thus, without expressing much on this aspect, the respondents are directed to reconsider the case of the petitioner for the grant of proficiency step up/ACP on completion of 24 years of service by considering the ACRs of 1995-96, 1996-97, 1997-98, 1998-99, 1999-2000, 2000-01 and 2001-02 to be satisfactory/good and pass necessary orders thereon within a period of two months from the date of receipt of certified copy of this order. In case, the respondents come to the conclusion that petitioner is entitled for the benefit

referred to above, to calculate and release the same within a period of next 1 month.

4. However, if the petitioner still feels aggrieved against the order passed by the concerned authority, he shall be at liberty to have recourse to the other remedies available to him as well as to approach this Court.

MARCH 06, 2018
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*