

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

**1. CWP-22580-2011 (O&M)
Date of decision : 22.08.2019**

Dr. Partap Singh Malhotra and others

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

**2. CWP-13316-2012 (O&M)
Date of decision : 22.08.2019**

Dr. Inderpal Kaur and another

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. H.C. Arora, Advocate,
for the petitioner(s) in CWP-22580-2011.

Mr. D.S. Patwalia, Sr. Advocate,
with Mr. Harsh Mehla, Advocate,
for the petitioner(s) in CWP-13316-2012.

Ms. Anju Arora, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J.

The above noticed two writ petitions are being disposed of by this single judgment as common questions of facts and law are involved therein. However, the facts are being derived from CWP-22580-2011, for brevity.

The petitioners, *inter alia*, seek quashing the order dated 23.03.2011 (Annexure P-8) whereby, their claim for grant of benefit under the Assured Career Progression Scheme from due dates was rejected.

It is contended that the petitioners being members of the Punjab Civil Medical Services (PCMS) had been working on various teaching posts i.e. Senior Lecturer, Assistant Professor, Associate Professor and Professor, prior to their retirement from their respective posts. The State of Punjab issued a notification dated 19.05.1998 (Annexure P-2), whereby, new rules known as "Punjab Civil Service (Revised Pay) First Amendment Rules, 1998, were enforced. Subsequently, vide notification dated 23.09.1998 (Annexure P-3), the State Government issued detailed instructions for implementation of recommendations of the 4th Punjab Pay Commission for introducing Assured Career Progression (ACP) scheme for its employees w.e.f. 01.01.1996. Vide another circular dated 17.04.2000 (Annexure P-4), certain clarifications were issued regarding implementation of the ACP scheme notified vide Annexure P-3 including a list of 9 categories of employees in various departments to whom the grant of benefit of the ACP Scheme was restricted. The post of Medical Officer (PCMS-I) was reflected at serial No.3 of the said list. Thereafter, a notification dated 07.04.1999 (Annexure P-5), issued by the Department of Medical Education and Research with regard to the pay scales granted to the teaching personnel of the Punjab State Medical/Dental Colleges including the posts of Senior Lecturer, Assistant Professor, Associate Professor and Professor, etc. Despite the issuance of said notification, the petitioners were not extended the benefit of the ACP Scheme. In these circumstances, petitioner Nos.1, 12

and 13 submitted separate representations (Annexures P-6/1, 6/2 and 6/3, respectively) to respondent No.2, however, they did not receive any response thereto. Feeling aggrieved against the inaction of the respondent-authorities, the petitioners filed CWP-7463-2010 titled as ***Dr. Partap Singh Malhotra & others Vs. State of Punjab and others***, which was disposed of by this Court vide judgment dated 27.04.2010 (Annexure P-7), thereby directing the respondents therein to consider the claim of the petitioners for grant of ACP from the due date. However, when the respondents did not pass any order on the claim of the petitioners within the stipulated period, the petitioners filed a contempt petition bearing COCP-35-2011. During the pendency of the contempt proceedings, respondent No.2 passed the impugned order (Annexure P-8), thereby, rejecting the claim of the petitioners. Hence, the instant petition.

Learned counsel for the petitioners refers to circular dated 07.04.1999 (Annexure P-5), to contend that the teaching personnel of the Punjab State Medical/Dental Colleges are also entitled to time scale placement as given to the PCMS Doctors. The benefit of time scale placement was extended to the PCMS Doctors vide circular dated 23.09.1998 (Annexure P-3) read with circular dated 17.04.2000 (Annexure P-4), therefore, the same ought to have been extended to the petitioners as well. Even otherwise, the teaching personnel of the Punjab State Medical/Dental Colleges has been held entitled to the same pay and allowance as are admissible to the PCMS Doctors.

On the other hand, learned State counsel submits that the according to circular dated 17.04.2000 (Annexure P-4), only the Medical

Officers (PCMS-I) from the Department of Health and Family Welfare, are eligible for the grant of benefit under the ACP Scheme. The petitioners belong to the Department of Medical Education and Research and there is no government notification, order or letter whereby the benefit in question has been extended to the Punjab Medical Education Service personnel.

Heard.

It is to be noted that after revising the pay scales of various categories vide notification dated 19.05.1998 (Annexure P-2), which also included the revision of pay scales of Medical Officers (PCMS-I), and Dental Surgeons, the State had issued another circular dated 17.04.2000 (Annexure P-4). As per Annexure A to notification Annexure P-4, the benefit of ACP scheme was restricted to the following nine categories:-

“**Annexure A**

Categories of employees and Departments

1.	Veterinary officers	Animal Husbandry
2.	Assistant Architects	Architect
3.	Medical Officers (PCMS-I)	Health & Family Welfare
4.	Sub-divisional Officers	Irrigation and Power
5.	Deputy Superintendent of Police	Police
6.	PCS (Executive Branch)	General Administration
7.	Sub-Divisional Officers	PWD(B&R)
8.	Sub-Divisional Officers	PWD(Public Health)
9.	Assistant Town Planners	Town & Country Planning

The benefit of the ACP scheme as claimed by the petitioners has been denied to them solely on the ground that the scheme of ACP is not to be extended to the teaching personnel of the Department of Medical Education and Research. However, the ground so taken is unsustainable. Before proceeding further, it would be apposite to refer to notification dated

07.04.1999 (Annexure P-5), relevant portion whereof, reads thus:-

“No.7/16/98-4HBIII/1284 - The Governor of Punjab is pleased to revise the existing Scales of Pay of the teaching personnel of the Punjab State Medical/Dental Colleges.

As per details given below:-

Sr. No.	Designation	Existing Scale of Pay	Revised Scales of Pay
I	Senior Lecturer	Rs.3000-5000	Rs.14300-18150
II	Assistant Professor/ Associate Professor	Rs.3700-5700	Rs.16350-20100
III	Professor	Rs.4500-7300	Rs.18600-22100
IV	Principal	Rs.4500-7300 + Rs.300/- Special Pay	Rs.18600-22100 + 600/- Special Allowance
V	Director, Research and Medical Education, Punjab	Rs.4500-7300 + Rs.500/- Special Pay	Rs.18600-22100 + Rs.1000/- Special Allowance

2. *No benefit of U.G.C. under this pay structure shall be given. However, they shall be given the benefit of time scale placement as is given to PCMS doctors.*

3. *Further, all allowance, like non-practicing allowance, allowance for rent free accommodation, higher qualification allowance, conveyance allowance and academic allowance shall be given to Medical and Dental teachers also on the patter of PCMS doctors.*

4. *XXX XXX XXX XXX XXX XXX*

5. *XXX XXX XXX XXX XXX XXX ”*

The pay scales of teaching personnel of the Punjab State Medical/Dental Colleges including the petitioners were revised vide notification (Annexure P-5). A perusal of the said notification clearly reveals that such teaching personnel would be entitled to the same benefits i.e. time scale placement and all other allowances, as are admissible to the

PCMS doctors of the Health and Family Welfare Department. Merely non-mentioning of the Department of the petitioners i.e. Department of Medical Education and Research would not suffice to deny them the equal status conferred upon them viz-à-viz the Medical Officer (PCMS-I) working in the Department of Health and Family Welfare, vide notification Annexure P-5, for the purposes of time scale placement and other allowances. Therefore, the stand taken by the respondents defies logic and needs to be rectified.

In view of the above, the instant petition is allowed; impugned order dated 23.03.2011 (Annexure P-8) is hereby quashed; and the respondents are directed to grant the benefit of ACP scheme from due date(s) to the petitioners in accordance with the ACP Scheme. The necessary exercise be completed within a period of six weeks from the date of receipt of a certified copy of this judgment. The arrears, if any, shall be paid within four weeks thereafter.

Allowed.

Photocopy of this judgment be placed on the file of the connected case.

22.08.2019
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(JITENDRA CHAUHAN)
JUDGE

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