

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

CWP-26062-2018 (O & M)

Date of decision: 24.05.2019

Dr. Vipin Kumar

.... Petitioner(s)

V/s

State of Punjab and ors.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vikas Chatrath, Advocate, and
Mr. Vivek Salathia, Advocate, for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

Rajan Gupta, J. (Oral)

CM-8251-CWP-2019

Application for placing on record replication on behalf of the petitioner, is allowed as prayed for. Same is taken on record. Registry to page-mark the paper-book accordingly.

CWP-26062-2018

Petitioner has prayed for a writ in the nature of certiorari for quashing of communication dated 13.08.2018, Annexure P-13 by virtue of which he would superannuate at the age of 58 years. Petitioner was initially appointed on January 01, 1997 as PCMS Doctor. In September, 2003, he completed his post-graduation in Physiology. As per his stand, he applied for the post of Lecturer in Physiology pursuant to advertisement dated 14.12.2007 issued by the Directorate of Medical Education. However, petitioner's name did not figure in the list of selected candidates. He, thus, preferred a writ petition i.e. CWP-1213-2010 before this court. During the

pendency of said petition, appointment letter, Annexure P-2 was issued to the petitioner appointing him as Lecturer in the department of Physiology.

As per the stand of the State, however, petitioner was later re-designated as Tutor-cum-Lecturer-cum-Medical Officer. Due to such re-designation, State is at liberty to treat the petitioner as Medical Officer under the Directorate of Health and Family Welfare.

I have heard learned counsel for the parties and given careful thought to the facts of the case. It appears that the stand of the State is self-contradictory. Petitioner was admittedly given an appointment as Lecturer in the Government College, Amritsar and, thus, governed by Punjab Medical Education Rules, 1979. It is inexplicable how the petitioner can be simultaneously treated as a member of another service not governed by the PMES Rules. Admittedly, same issue arose in the case of another employee namely Dr. Pardeep Balgan. Sh. Satish Chandra, Secretary, Medical Education and Research, Punjab, was pleased to pass an order which reads as under:-

“Kindly examine your letter no.2706/E-2/Pending dt. 17.11.2008 in regard to the above said subject as it has been informed by you that Dr. Pardeep Balgan had joined Medical Education and Research Department and his appointment as Lecturer had been made in Govt. Medical College, Amritsar. Retirement age for the post of Lecturer is 60 years. As such Dr. Pardeep Balgan whose date of birth is 2.10.1950, he shall retire on 31.10.2010”.

Vide its order dated April 30, 2019, this court had put a query as to why there was discrimination by the department in case of similarly placed

employees. An affidavit has been filed by the same officer. However, no clear stand is forthcoming. It still remains a matter of concern as to how the petitioner, who was given an appointment letter, Annexure P-2 as a Lecturer and can be treated to be an employee under the Directorate of Health and Family Welfare, Punjab.

Under the circumstances, communication, Annexure P-13, is hereby set aside. Matter is remitted to the Chief Secretary, State of Punjab to constitute a committee to reconsider the entire issue and take a fresh decision within six weeks.

Allowed in these terms.

May 24, 2019
sukhpreet

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No