

Dr. K.C. Bhatia and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Mr. Manu K.Bhandari, Advocate
for the petitioners.

Ms. Nidhi Garg, AAG, Haryana.

Mr. Padamkant Dwivedi, Advocate
for respondent Nos.2 and 3.**NIRMALJIT KAUR, J. (ORAL)**

The present writ petition has been filed for quashing of order dated 14.05.2015, placed on record as Annexure P-20, vide which, the claim of the petitioners for grant of benefit of Non Practicing Allowance, was rejected while the same was permitted to those who retired before or after 01.04.2001 to 06.12.2001 as also during the said period.

A perusal of the said order dated 14.05.2015 shows that respondent No.1 declined the grant of actual benefit of the Non Practicing Allowance to the petitioners on the ground that they had retired between 01.04.2001 to 06.12.2001, in view of the letter dated 20.07.2009 passed by the Finance Department, Haryana Government that only notional benefit shall be granted from 01.04.2001 and the actual benefit will be admissible prospectively i.e. from the date of issue of the instructions dated 20.07.2009.

the Non Practicing Allowance has been granted to one and all except those who retired between 01.04.2001 to 06.12.2001 except notionally.

This Court in similar set of circumstances quashed identical instructions dated 07.12.2001, vide judgment dated 06.04.2016 passed in CWP No.7848 of 2002, which reads as under:-

“After perusing the judgment of the Supreme Court in **K.C. Bajaj and others case (supra)**, the benefit of NPA has been extended to the doctors for the purpose of calculating the pensionary benefits on the recommendation of the 5th Central Pay Commission. The stand taken by the respondent(s) in the present case that the Haryana Government has broadly followed the central pattern for fixing the pension of the petitioners, who were doctors. During the pendency of this petition, vide notification dated 26.04.2006, a conscious decision has further been taken to include the NPA as part of pay within the meaning of Rule 6.19(c) of the Punjab C.S.R. Volume II on a pensionary benefit. Hence, the necessary benefits have already been granted to the petitioners but w.e.f. 18.04.2006. In view of the judgment of the Supreme Court in **K.C. Bajaj and others (supra) case**, the grant of NPA as per the O.M. dated 07.04.1998, has been extended to the doctors as per the 5th pay recommendation. Following the said judgment, the present writ petition is allowed. The instructions dated 07.12.2001 (Annexure P-2) is set aside and the petitioners are held entitled to get their pension after counting the NPA w.e.f. 07.12.2001 to 17.04.2006. The instructions dated 26.04.2006 (Annexure P-5) are accordingly modified to the above said extent.”

Besides the above, the respondents have granted the Non Practicing Allowance to similarly placed doctors, who too retired during the

same period as the petitioners. This is evident from documents placed on record Annexures P-5 to P-7 obtained by the petitioners in pursuance to the application under Right to Information. This fact is not disputed. There is no reason to discriminate the petitioners and they cannot be treated differently.

In view of the same, the present writ petition is allowed. The impugned order dated 14.05.2015 is set aside and the instructions dated 20.07.2009, to the extent, vide which, actual benefits to those retiring between 01.04.2001 to 06.12.2001 has been denied, is quashed. The petitioners are held entitled to the Non Practicing Allowance. The respondents are directed to release the consequential benefits forthwith alongwith interest @ 6% from the date they were held entitled up till the date of actual payment.

09.01.2020
sandeep

(NIRMALJIT KAUR)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No