

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.3703 of 2009

1. Dr. Anil Kumar Shrivastava, S/o Shri K.K. Shrivastava, aged about 48 years, R/o Primary Health Centre, Ratanpur, Tehsil Kota, District Bilaspur (C.G.)
 2. Dr. Satish Kumar Shrivastava (deleted)
 3. Dr. Amal Kumar Jha, S/o Shri B. Jha, aged about 50 years, R/o Community Health Centre, Kargi Road, Kota, District Bilaspur (C.G.)
 4. Dr. Anand Murthy, S/o Late Shri Ram Das Shrivastava, aged about 50 years, R/o Civil Hospital, Bemetara, District Durg (C.G.)
- Petitioners

Versus

1. State of Chhattisgarh, Through Secretary, Department of Health & Family Welfare, D.K.S. Bhavan, Raipur (C.G.)
 2. Director, Health Services, D.K.S. Bhavan, Raipur (C.G.)
- Respondents

For Petitioners: Mr. Amit Soni, Advocate.
 For Respondents/State: Mr. Avinash Singh, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

30/06/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioners preferred W.P.(S)No.6403/2008 claiming that their representation for grant of senior pay scale has not been considered and decided, which this Court on 18-11-2008 directed to consider the case of the petitioners for grant of senior pay scale. The State Government by order dated 15-5-2009 considered the representation of the petitioners and rejected the same holding that the petitioners have been given the benefit of senior pay scale with effect from 1-1-

2006 and as such, they are not entitled for the benefit of time bound pay scale against which this writ petition has been preferred.

3. Mr. Amit Soni, learned counsel appearing for the petitioners, would submit that though the representation of the petitioners has been rejected by order dated 15-5-2009, but no reason has been assigned why the petitioners have not been given the benefit of senior pay scale with effect from March, 1994 and by an unreasoned and non-speaking order, their representation has been rejected.
4. Mr. Avinash Singh, learned State counsel would support the impugned order.
5. I have heard learned counsel for the parties and considered their submissions made herein-above and also went through the material available on record with utmost circumspection.
6. This Court directed to consider the case of the petitioners for grant of senior pay scale which the State Government considered and held that they have been given the benefit from 1-1-2006. Case of the petitioners is that they are entitled for the said benefit because of their completion of service of six years and as such they are entitled for senior pay scale with effect from March, 1994. Paragraph 2 of the impugned order states as under: -

2/ प्राप्त अभ्यावेदन का नियमों/निर्देशों के परिप्रेक्ष्य में अवलोकन कर समग्ररूप से परीक्षण किया गया तथा दिनांक 30.04.2009 को याचिकाकर्ताओं का समक्ष में सुना गया। उनके द्वारा मुख्यतः निम्न दो बिन्दु उठाये गये:-

1. वरिष्ठ वेतनमान हमें 18 वर्ष के बाद दिया गया जबकि उसी आदेश में हमसे कनिष्ठ चिकित्सकों को केवल 7 वर्ष में वरिष्ठ वेतनमान दिया गया।
2. 16 वर्ष की सेवा के पश्चात् भी हमें टाईम स्केल नहीं मिला है।

उपरोक्त बिन्दु क्रमांक 1 के संबंध में स्थिति इस प्रकार है:- विभाग में चिकित्सक संवर्ग के लिए पूर्व से ही मध्यप्रदेश वेतन पुनरीक्षण नियम 1990 की अधिसूचना

दिनांक 04 फरवरी 1990 के अंतर्गत त्रिस्तरीय वेतनमान लागू है। जिसमें सहायक शल्य चिकित्सक (चिकित्सा अधिकारी) को 6 वर्ष की सेवा पूर्ण होने पर स्वीकृत पदों का 25 प्रतिशत की सीमा में वरिष्ठ वेतनमान तथा वरिष्ठ श्रेणी में 4 वर्ष की सेवा होने पर पदों का 15 प्रतिशत सीमा में प्रवर श्रेणी वेतनमान दिये जाने का प्रावधान है, जिसके तहत आयुक्त, स्वास्थ्य एवं परिवार कल्याण छत्तीसगढ़ रायपुर के आदेश क्रमांक एफ 1-110/विज्ञप्त/781, दिनांक 23 अगस्त 2008 के सरल क्रमांक क्रमशः 31, 26, 36, 24 एवं 57 पर दर्शाये अनुसार अभ्यावेदनकर्ता चिकित्सकों को नियमों के प्रावधान तथा पद उपलब्धता होने पर पात्रता अनुसार दिनांक 01.01.2006 से वरिष्ठ वेतनमान का लाभ दिया गया है। आदेश जारी होने के दिनांक तक पद उपलब्ध थे इसलिए इसी आदेश में इनसे कनिष्ठ चिकित्सको को भी उनकी पात्रता अनुसार दिनांक 01.01.2008 से वरिष्ठ वेतनमान का लाभ दिया गया है।

बिन्दु 2 के संबंध में स्थिति इस प्रकार है: – वित्त विभाग के परिपत्र दिनांक 28.04.2008 के द्वारा जारी समयमान वेतन योजना अथवा इसके प्रावधान उक्त परिपत्र की कंडिका 02 के परिप्रेक्ष्य में स्वास्थ्य एवं परिवार कल्याण विभाग के अंतर्गत चिकित्सक संवर्ग के लिए पूर्व से प्रचलित त्रिस्तरीय वेतनमान लागू होने के कारण प्रावधानित नहीं है।

7. A careful perusal of the impugned order would show that the State Government has simply said that in accordance with the rules and unavailability of posts, the benefit of senior pay scale has been given from 1-1-2006, but no specific reason has been assigned why the petitioners were not given the benefit from March, 1994 and why from 1-1-2006 it has been given.
8. Therefore, the impugned order by which the petitioner's representation has been rejected holding that they are entitled for the benefit of senior pay scale from 1-1-2006 and not from earlier date, is partly set aside. Fresh order shall be passed after considering the case of the petitioners and hearing them, within two months from the date of receipt of a copy of this order. The petitioners are also at liberty to make additional representation within 30 days from the date of receipt of a copy of this order qua the other reliefs which have been claimed

in this writ petition and which shall also be considered by the respondents / State within two months from the date of representation.

This Court has not expressed any opinion on the merits of the matter.

9. With the aforesaid observation and direction, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

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