

**CM-14998-CWP-2021 in CWP No. 16049 of 2018 (O&M), -1-
CM-15012-CWP-2021 in CWP No. 16053 of 2018 (O&M) and
CM-14999-CWP-2021 in CWP No. 16054 of 2018 (O&M)**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**(1). CM-14998-CWP-2021 in
CWP No. 16049 of 2018 (O&M)
Date of Decision: November 01, 2021**

**DR. GAURAV BAMBHA Petitioner(s)
Versus**

STATE OF HARYANA AND OTHERS Respondent(s)

**(2). CM-15012-CWP-2021 in
CWP No. 16053 of 2018 (O&M)**

**DR. ROULI SUD Petitioner(s)
Versus**

STATE OF HARYANA AND OTHERS Respondent(s)

**(3). CM-14999-CWP-2021 in
CWP No. 16054 of 2018 (O&M)**

**DR. GULSHAN KUMAR GARG Petitioner(s)
Versus**

STATE OF HARYANA AND OTHERS Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. R.K. Malik, Senior Advocate, with
Mr. Samrat Malik, Advocate
for the applicant(s)-petitioner(s).

. Mr. Harish Nain, AAG, Haryana.

LISA GILL, J.

Though matters were being taken up through physical hearing mode today, this matter has been taken up through video conferencing on specific request of learned counsel and in terms of circular dated 14.09.2021.

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CM-15012-CWP-2021 in CWP No. 16053 of 2018 (O&M) and
CM-14999-CWP-2021 in CWP No. 16054 of 2018 (O&M)**

This order shall dispose of CWP-16049-2018, CWP-16053-2018 and CWP-16054-2018, as an identical question arises for consideration in all these three writ petitions, which is whether the experience gained by petitioners as Assistant Professor at Kalpana Chawla Government Medical College, Karnal (Haryana) prior to approval/recognition being granted to it by the Medical Council of India, can be counted for re-designation of the petitioners as Associate Professors.

All the petitioners are admittedly working at the Kalpana Chawla Government Medical College, Karnal on regular basis as Assistant Professors. As per Rule 9(1)(f)(ii) of the Haryana Medical Education Service (Amendment) Rules, 2007, method of recruitment for an Assistant Professor is as under:-

“9(1) **Method of Recruitment-** Recruitment to any post in the service shall be made as under:-
(f)(ii) An Assistant Professor shall be re-designated as an Associate Professor if he fulfills the qualification and experience for the post of Associate Professor as laid down in column no.5 of Appendix-B.
The relevant of Appendix-B is also reproduced below for ready reference:-

Srl. No.	Designation of posts	Academic Qualification & Experience, if any, for re-designation as Associate Professor/Professor.
15	Associate Professor (Medical)	1. A basic University qualification included in the schedule to Indian Medical Council Act, 1956 (102 of 1956). 2. MD/M.S. or equivalent qualification recognized by the Medical Council of India in the subject concerned. EXPERIENCE Four years service in the speciality concerned as an Assistant Professor or an equivalent post in Postgraduate Institute of Medical Sciences, Rohtak.

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CM-15012-CWP-2021 in CWP No. 16053 of 2018 (O&M) and
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Petitioner – Dr. Gaurav Bambha's claim was rejected vide impugned order dated 04.06.2018 (Annexure P-5 in CWP-16049-2018), petitioner – Dr. Rouli Sud's claim was rejected vide impugned order dated 04.05.2018 (Annexure P-5 in CWP-16053-2018) and petitioner – Dr. Gulshan Kumar Garg's claim was rejected vide impugned order dated 08.05.2018 (Annexure P-6 in CWP-16054-2018) on the ground that experience attained by them at Kalpana Chawla Government Medical College, Karnal before the approval granted by Medical Council of India to the said institute, cannot be counted as experience for promotion or re-designation. Kalpana Chawla Government Medical College, Karnal was granted approval by the Medical Council of India and Ministry and Health and Welfare, by Government of India on 29.05.2017 under Section 10-A of the Indian Medical Council Act, 1956, therefore, experience of the petitioners was being counted from the said date despite the petitioners working prior thereto. Petitioner – Dr. Gaurav Bambha (in CWP-16049-2018) has joined the institution on 18.04.2013, petitioner – Dr. Rouli Sud (in CWP-16053-2018) has joined the institution on 18.01.2014 and petitioner – Dr. Gulshan Kumar Garg (in CWP-16054-2018) on 07.05.2013. Aggrieved from rejection of their claims present writ petitions have been filed by the petitioners.

Written statement has been filed in CWP-16053-2018, wherein the stand of the respondents is that experience of the petitioner rendered with the Kalpana Chawla Government Medical College, Karnal, before

approval was granted to the said institute in 2017, cannot be considered and counted as teaching experience, therefore, petitioner was not considered eligible for re-designation/promotion to the post of Associate Professor for want of requisite experience of four years as prescribed in the Haryana Medical Education Service (Amendment) Rules, 2007. There is no dispute that petitioner in the said case had been working in the Kalpana Chawla Government Medical College, Karnal since January 2014. Though separate reply has not been filed in the other two writ petitions, stand of the official respondents is the same inasmuch as that the experience rendered by the petitioners in their respective writ petitions prior to grant of approval to the Kalpana Chawla Government Medical College, Karnal, cannot be afforded to the petitioners.

Learned counsel for the petitioner(s) has referred to order dated 22.01.2020 in CWP-14808-2017, wherein it has been held that experience gained by an Assistant Professor at Kalpana Chawla Government Medical College, Karnal, prior to grant of approval by the Medical Council of India has to be taken into consideration as regular experience and benefit thereof has to be afforded for the purpose of promotion/re-designation. Learned counsel has further referred to order dated 20.08.2021 (Annexure P-16 in CWP-16054-2018), whereby similarly situated persons as the petitioners, have been given the benefit of service rendered at the institutes/medical college/hospital, prior to approval by the Medical Council of India. Learned counsel for the petitioner(s) submits that petitioners have been victimized

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only due to the pendency of present writ petitions.

Documents (Annexures P-10 and P-11 in CWP-16049-2018, Annexures P-12 to P-14 in CWP-16053-2018 and Annexures P-14 to P-16 in CWP-16054-2018) annexed alongwith the applications, respectively are taken on record, subject to just exceptions.

All these writ petitions were adjourned for 02.12.2019 for arguments, however, they now stand automatically adjourned to 04.03.2022, due to outbreak of pandemic COVID-19. Miscellaneous applications were filed in all the three writ petitions seeking disposal of the writ petitions in terms of decision dated 22.01.2020 in CWP-14808-2017, with the further averment that respondent-authorities have already given the benefit to similarly situated employees vide order dated 20/27.08.2021 while deliberately ignoring the petitioners merely due to pendency of these petitions. Notice of these applications was issued and learned counsel for the respondents had sought time. It is relevant to note that despite opportunity, no reply has been filed to the above mentioned miscellaneous applications, wherein petitioners have sought relief in terms of order dated 22.10.2020 in CWP-14808-2017 and order dated 20.08.2021, passed by the official respondents themselves in respect of similarly situated persons as the petitioners.

Learned counsel for the State, however, submits that matter is under consideration but is unable to explain the reason as to why present petitioners were not considered at the time of passing of order dated

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20.08.2021 in respect to persons similarly situated as the petitioners. He is further unable to deny that petitioners' case is fully covered by order dated 22.10.2020 in CWP-14808-2017. Though, it is submitted that an application seeking review of order dated 22.10.2020 in the said writ petition has been filed but it is candidly admitted that no interim order has been passed in the said review application. Furthermore no distinction has been drawn between the case of petitioners and persons to whom the benefit has been afforded by the respondents themselves vide order dated 20.08.2021 (Annexure P-16 in CWP-16054-2018).

It is in view of the above facts and circumstances, that the writ petitions are taken on Board for hearing today itself. As noticed in the foregoing paras, learned counsel for the State is unable to distinguish the case of the petitioners from that of the petitioner in CWP-14808-2017. I do not find any justification whatsoever for denying the relief to the petitioners which has admittedly been accorded to similarly situated persons by the State itself. Accordingly, impugned orders dated 04.06.2018 (Annexure P-5 in CWP-16049-2018), 04.05.2018 (Annexure P-5 in CWP-16053-2018) and 08.05.2018 (Annexure P-6 in CWP-16054-2018) are set aside. Competent authority is directed to pass appropriate order/s for re-designation of the petitioners as Associate Professor, after considering their experience from the date of appointment with the Kalpana Chawla Government Medical College, Karnal till 29.05.2017 when approval was granted to the said institute as regular experience as well, within a period of four weeks from

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the date of receipt of certified copy of this order.

Applications as well as the writ petitions stand allowed.

November 01, 2021	(Lisa Gill)
Sunil	Judge
Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No