

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

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CWP No.15128 of 2017
Date of decision:12.04.2023

Babita Ahlawat

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Jangvir Singh Hooda, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

By way of present petition, petitioner has approached this Court seeking issuance of a writ in the nature of *certiorari* for quashing the impugned communication dated 02.11.2016 (Annexure P-10), whereby, respondent No.4 has rejected the claim of the petitioner for grant of Mewat Area Allowance.

Case of the petitioner is that she acquired MDS (Pedodontics and Preventive Dentistry) from BRS Institute of Medical Sciences, Panchkula and completed three years Post Graduate Residency tenure on 31.05.2013. She was appointed as Senior Resident, Dentistry Department at Mewat, vide appointment letter dated 16.12.2013, Annexure P-3. In terms of Government instructions, she was granted Mewat Area Allowance for three months which was later withdrawn and recovered from her salary. Vide

impugned communication, she was informed that as she was not a Post Graduate on the date of joining, she cannot be granted the Allowance.

Upon notice, writ petition has been contested by the respondents by submitting that Mewat Area Allowance was granted, vide letter dated 25.10.2011 and was enhanced to Rs.35,000/- for Post Graduate doctors, vide letter dated 29.05.2013. It has been further submitted that petitioner was appointed on a tenure post for three years and was relieved from duty on completion of tenure on 18.12.2016. Stand taken by the respondents is that petitioner was granted the Allowance with effect from 21.03.2016, when she submitted the provisional Post Graduate degree and the benefit cannot be granted to her prior thereto.

Counsel for the petitioner submits that petitioner had cleared MDS in May, 2013, but due to pendency of a writ petition before this Court, degree was awarded to the petitioner on 01.09.2016. Counsel submits that the petitioner has joined the services on 19.12.2013 at Mewat and she is entitled to the Mewat Area Allowance during the entire tenure till December, 2016.

State counsel urges that the petitioner cannot be treated as Post Graduate till the time she did not acquire the PG degree. He submits that once the provisional degree was issued to the petitioner, Allowance was granted to her upon its submission.

I have heard counsel for the parties and considered their respective submissions.

The reason for delay in the award of the degree to the petitioner

cannot be attributed to her. Hold-up was on account of litigation pending before this Court to which the petitioner was not even a party. Once the degree was awarded, petitioner submitted it with the respondents, who have granted her the benefit from March, 2016 to December, 2016. Having done so, the respondents cannot take a stand that the petitioner is not entitled to the grant of Mewat Area Allowance. Respondents are not in a position to dispute that the petitioner was a Post Graduate before joining the service. Mere delay in submission of the degree, which was beyond the control of the petitioner, cannot be a ground for the denial of the Allowance to which she is otherwise entitled.

In view of the above, impugned communication dated 02.11.2016 (Annexure P-10) is quashed. Respondents are directed to grant Mewat Area Allowance to the petitioner in terms of the applicable instructions for the entire tenure period, within three months from the date of communication of this order. In case, due amount is not disbursed within the aforesaid period, respondents shall be burdened with interest @ 6% per annum for the delay.

Writ petition stands allowed.

April 12, 2023

savita

(SUVIR SEHGAL)
JUDGE

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