

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

CWP-2152-2019 (O&M)
Date of decision:03.10.2024

Dr. Pankaj Kaushik and Another

...Petitioners

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Sunil K. Nehra, Advocate for the petitioners

Ms. Tanisha Peshawaria, DAG Haryana

AMAN CHAUDHARY, J.

1. Challenge made in the present petition is to the impugned letters dated 23.04.2018, 16.07.2018 and 24.09.2018 and order dated 04.01.2019, whereby recovery of the wages paid during study leave for the period from 27.12.2017 to 27.09.2018 is being affected.

2. This Court vide interim order dated 30.01.2019 stayed the recovery, which reads thus:

“Learned counsel submits that petitioners were appointed as Ayurvedic Medical Officer in the respondent Health and Ayush Department, Government of Haryana. As per policy dated 26.09.1988, the Ayurvedic Doctors/Teachers were granted NOC for doing Post Graduate Courses in recognized Ayurvedic College in Country. Further Ayurvedic Doctors selected against Central Government nominated seats will be treated on duty and they will be paid full pay and allowances for the duration of their course. Thereafter, as per policy dated 19.10.2001 the practice of nominating/permitting in service State Government Employees for higher studies on full pay was discontinued forthwith. Thereafter, the petitioners submitted their applications to the department and which were

forwarded by the Principal Secy to Government of Haryana, Health and Ayush Department to the Secretary, Ministry Government of India. The petitioners were then nominated on 18.10.2017 to undergo post Graduate Course in respondent No. 4-College.

Learned counsel submits that impugned order is liable to be set aside, as the Government has issued policy dated 16.11.2018 that all the Ayurvedic Medical Officers would be paid full salary during their course period and thus, the petitioners should also be allowed to continue their Post Graduate Course in terms of the new policy. The policy dated 16.11.2018 has been framed after considering the representations given by the petitioners.

Notice of motion for 29.07.2019.

In the meantime, the recovery pursuant to letter dated 16.07.2018 (P-9) shall remain stayed. The petitioners shall continue to do their course as per letter dated 25.07.2017 and they shall be paid full salary as per policy dated 16.11.2018 (P-18)."

3. An additional condition that had been imposed by the Chief Secretary, Haryana Government Health and Ayush Department, Chandigarh vide letter dated 21.12.2017 of filing an affidavit to deposit Rs. 25 lakh, along with a service bond of 7 years, was also complied with by the petitioners.

4. Notably, the respondents had themselves framed the policy dated 16.11.2018, entitling the doctors pursuing the PG course to draw full salary and with regard to the grey area prior thereto, the petitioners were paid the same in compliance to the interim order, which was neither sought to be got vacated by filing any application nor challenged by the respondents, whereafter, they completed the course, a fact admitted in the written statement, thus no recovery can now be permitted to be effected as was also held in **Subhash Chander vs. The Punjab Water Supply and Sewerage Board and Others**¹.

5. Learned State counsel, despite best efforts, has not been able to controvert the factual position or cite any contrary law.

¹ 2020 (3) SCT 612

6. On the anvil of the aforesaid and as a fall out thereof, the impugned letters/order are hereby set aside.
7. Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

03.10.2024
M.Kamra

Whether speaking/reasoned

Whether reportable

:

:

Yes / No

Yes / No