

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-11495-2019 (O&M)
Date of decision 18.09.2024

Dr. Rohtash Nandal

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Lekh Raj Nandal, Advocate for the petitioner

Ms. Vibha Tewari, AAG Haryana

AMAN CHAUDHARY, J.

1. The fixation of pay at par with Dr. Partap Singh, who though initially had been appointed prior to the petitioner has not been granted, though latter was higher in merit, but appointed subsequently.
2. The application form of the petitioner, who was placed at Serial No.47 in the merit list prepared by the Haryana Public Service Commission, was not forwarded and thus not considered for appointment, prompting him to file CWP-6941-1995, wherein prayer for the same from the date of his junior Dr. Balwan Singh, at No.48 was made, which was disposed of by the Division Bench on 12.07.1995, by passing the following order:

“Written-statement on behalf of respondent No.2 has been filed in the Court today.

The petitioners before us had represented to the Government that on the basis of the merit and other circumstances, they were entitled to be appointed as Ayurvedic Medical Officer in Ayurvedic Department, Haryana. The Commissioner and Secretary to Government of Haryana, Health Department, wrote to the Secretary, Haryana Public Service Commission, that the application forms of the petitioners i.e. Smt. Saroj Bala and Sh. Rohtas for the post of Ayurvedic Medical Officer in Ayurvedic Department be sent to the Government.

According to the learned counsel for the petitioners, appointments are being withheld only on the ground that the application forms have not been sent by the Haryana Public Service Commission to the Government.

After hearing the learned counsel for the parties, we are of the opinion that there should not be any impediment for the Haryana Public Service Commission to send the application forms to the Government. In case any rule requires that the Haryana Public Service Commission must retain the original application forms, then photostat copies of the same can be sent to the Government after attesting the same to be true photostat copies of the originals. Consequently, we dispose of this writ petition by directing the Haryana Public Service Commission to send the original application forms of the petitioners to the Government and in case some rule/regulations requires the Haryana Public Service Commission to retain the original applications, the photostat copies of the same, after attesting the same to be true photostat copies, be sent to the Government, which shall take action in accordance with law.

The writ petition is disposed of in the above terms.”

3. In light of the aforesaid, after 3 years the petitioner was offered an appointment letter on 17.03.1998, whereupon he submitted a representation for granting him seniority from the date of person lower in merit, along with all consequential benefits. Thereafter, a gradation list was issued on 01.07.2008, wherein his name was rightly placed at Serial No.197, while that of Dr. Balwan and Dr. Partap Singh, at 198 and 208 respectively.

4. Insofar as the other benefits were concerned, there is no reason forthcoming, perhaps there being none, to not extend the notional benefits of pay fixation, only for grant of which, the learned counsel on instructions from the petitioner, has pressed during the course of hearing, that were appurtenant to he having subsequently been, on the basis of his merit position in the selection process, assigned the appropriate place in the seniority, vis-a-vis those, who being lower, however, were appointed prior to him, the fault of which lay completely with the respondents, as is apparent from a perusal of the aforesaid order. In this regard, a beneficial reference can be made to the judgment passed by Hon’ble the

Supreme Court in **C. Jayachandran vs. State of Kerala**¹, wherein the appellant, who was wrongfully excluded from the process of appointment on account of an illegal and arbitrary grant of moderation of marks, was granted notional seniority from the date the other candidates were appointed in pursuance of the same select list prepared on the basis of the common appointment process.

5. The petitioner in **Seema Rani vs. State of Punjab and another**² was granted by the respondents appointment during the pendency of the petition, though denying the claim for notional benefits from the date when other candidates had been appointed, which this Court granted while allowing her prayer, against which no challenge was made.

6. This Court held the petitioners in **Dr. Rajneet Singh and others vs. State of Punjab, through its Principal Secretary and others**³, entitled to all consequential benefits, other than salary, from the date of appointment of other persons selected in same selection process on account of wrong committed on behalf of the respondents by not recommending/appointing them, which was not taken up in appeal.

7. On a cumulative consideration of the present matter, the petition is disposed of with directions to the respondents to grant the petitioner notional benefits in terms of fixation of pay from the date that of his junior, Dr. Partap Singh, within a period of two months.

18.09.2024

M.Kamra

Whether speaking/reasoned

Whether reportable

:

:

Yes / No

Yes / No

(AMAN CHAUDHARY)

JUDGE

¹ (2020) 5 SCC 230.
² CWP-16772-2010 decided on 07.08.2012.
³ CWP-11280-2007, decided on 02.07.2009.