

**HIGH COURT OF JAMMU AND KASHMIR AT
JAMMU**

SWP No. 507/2009

Date of Decision: 15.03.2012

P.B.Kohli & Ors.	Vs.	State of J&K and anr.
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CORAM:

Mr. Justice J.P.Singh.

Appearing counsel:

For the Petitioner (s) : Mr. S.S.Lehar, Sr. Advocate with
Mr. Sudershan Kumar, Advocate.

For the Respondent(s) : Mrs. Neeru Goswami, Dy.A.G.

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| i) | Whether approved for reporting
in Press/Media | : Yes/No |
| ii) | Whether to be reported
in Digest/Journal | : Yes/No |
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The petitioners, who were working as Pharmacists in the Health & Medical Education Department of the State Government, approached this Court on an earlier occasion by their Writ Petition SWP No. 1616/94 seeking directions against the State-respondents to provide them promotional avenues. As the State Government were already in the process of considering providing promotional avenues to various categories of the members of the Service so taking note of its stand, the Writ Petition was disposed of by the Court requiring the State-respondents to take note of the decision rendered by Hon'ble Supreme Court of India in *Raghunath Prasad Singh versus Secretary, Home (Police) Department*, Government of Bihar and others, reported as AIR 1988 SC, 1033 and *Council of*

Scientific and Industrial Research and another versus K.G.S Bhatt and another, reported as AIR 1989 SC, 1972, while taking decision in the matter.

Finding that it was the prerogative of the State Government to consider providing promotional avenues for its employees and the Government being already seized of the matter, the Letters Patent Bench, seized of the petitioners' Appeal against the Writ Court order, left it open to the State Government to take its decision in the matter leaving the petitioners free to take any other remedy available in case any adverse order was passed against them.

The State Government thereafter examined and considered the petitioners' Claim in the light of the orders passed by the Court and thereafter vide Government Order No. 410 HME of 2007 dated 21.06.2007 indicated that the Medical Education Department had provided promotional avenues to all categories of the Service including that to which the appellants belonged vide Government Order No. 26-HME of 2006 dated 19.01.2006.

The petitioners have again approached this Court seeking directions against the State Government to provide them three promotional grades as was done in case of Anesthesia Assistants.

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

The avenues of promotion provided to the Pharmacists vide Government Order No. 26-HME of 2006 dated 19.01.2006 as indicated in Government Order No. 410-HME of 2007 dated 21.06.2007, which was issued dealing with the petitioners' Claim, have neither been adverted to nor questioned by the petitioners in the Writ Petition and it does not come out from what is stated therein as to how the avenues of promotion provided to the Pharmacists offend any of their rights. It, therefore, becomes difficult to address the petitioners' grievance.

This apart, in view of the State Government's Response to the petitioners' Writ Petition indicating that although only one promotion was made in Pharmacist Unit before January 2009 but thereafter 2 (two) Pharmacists were promoted as Head Pharmacists and 10 (Ten) as Pharmacists Supervisors in the pay scale of 6500-10500 and 5700-10100 w.e.f 6.1.2009 after up-gradation of posts was sanctioned vide Government Order No. 17-HME of 2009 dated 6.1.2009 with prospective effect, there does not appear any merit in the petitioners' Claim that promotional avenues were not provided to the Pharmacists by the Government.

During the course of consideration of the Petition, the petitioners' learned counsel would submit that although promotions were provided to some of the petitioners but nothing was done by the State Government for those who had retired, when the State Government was under obligation to consider their cases too for promotion.

I do not find any merit in the petitioners' learned Senior Counsel's this submission too, for, the directions issued in the earlier round of litigation were only to consider providing promotional avenues to Pharmacists and there was no such direction to provide promotional avenues with retrospective effect.

As the promotional avenues have been provided prospectively, so those who retired from service before the creation of fresh promotional avenues would not be entitled thereto.

For all what has been said above, no merit is found in the petitioners' Writ Petition, which is, accordingly, dismissed.

(J. P. Singh)
Judge

JAMMU
15.03.2012
Pawan Chopra