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**(2018) 04 MP CK 0052**  
**In the Madhya Pradesh High Court**  
**Case No : WP No.8371 OF 2018**

Dr. T.D. Bhakoria

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

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**Date of Decision :** 13-04-2018

**Acts Referred:**

Constitution of India — Article 226

**Citation :** (2018) 04 MP CK 0052

**Hon'ble Judges :** S.C. SHARMA, J

**Bench :** Single Bench

**Advocate :** Ranjeet Sen

**Final Decision :** Allowed

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## Judgement

The petitioner before this court is aggrieved by the orders dated 3005-2012 (Annexure-P-5), 01-06-2012 (Annexure-P-6) and 08-06-2016 and 10-10-

2013 (Annexures-P-9 and P-10), by which recovery has been ordered against him. The recovery in question is being done on account of higher pay

scale (Time Pay Scale) granted to the petitioner from time to time.

At the outset learned counsel for the petitioner has argued before this court that the controversy stands concluded on account of judgment delivered

by this court in Writ petition No. 17846/2012(s) Dr Ravindra Tathodi Vs. State of M.P. dated 20-12-2017 and the same reads as under :-

All these writ petitions have been filed by the petitioners under Article 226 of the Constitution of India being aggrieved by the order dated 30.5.2012

passed by respondent No. 1 and the consequential orders dated 1.6.2012, 25.6.2012 and 23.7.2013 whereby the recovery along with the interest @

12% per annum have been ordered and also directed for the adjustment of the arrears of 6th Pay Commission from the proposed recovery. The order

dated 14.1.2016 issued to explain the Rules is also under challenge, however, seeking directions to quash those orders, the petitioners who are

Association of Doctors, Medical Officers, Dental Surgeons, Specialists and Dental Specialists in individual, have come before this Court seeking

appropriate reliefs.

2. The petitioners and members of the Association were appointed on the post of Medical Officer in Public Health and Family Welfare Department;

while some of them were appointed as Dental Surgeons. Some members of Association and some petitioners were promoted as Specialists and

Dental Specialists. Their appointments were made under the M.P. Public Health and Family Welfare (Gazetted) Service Recruitment Rules, 1988

(hereinafter shall be referred as "the old Rules") prevalent at the time of their appointment or promotion. It is not in dispute that after repeal of the

old Rules, the new Rules known as M.P. Public Health and Family Welfare (Gazetted) Service Recruitment Rules, 2007 (hereinafter shall be referred

as "the new Rules") came into existence w.e.f.4.1.2008. Rule 4 and Rule 5 of the new Rules deals the Constitution of the Service, Classification

and scale of pay as specified in Clauses 10, 11, 12 and 13 of Schedule I. Learned counsel representing the petitioners havevehemently argued that on

perusal of column 6 of Schedule I, after completing six years of service in the junior grade scale as per the recommendation of the Screening

Committee, the employee can get senior grade scale, selection grade scale and senior selection grade scale on completion of tenure of six years in

each cadre. Under the Rules the cut-off date to grant grade scale of pay has not been prescribed. The Rules merely specify the tenure of service in

each cadre for granting the benefit of four tier grade scales of pay to the Doctors.

3. It is said, the State Government has itself issued the order dated 26.8.2008 explaining that all the Medical Officers, Dental Surgeons and officers of

Special cadre may be entitled to get four tier grade scale of pay on completion of the tenure so specified. On issuing the said order the State

Government has issued the clarification vide Annexure P-7 dated 23.5.2009 stating that the real benefit of four tier grade scale of pay may be allowed

w.e.f. 26.8.2008, though notional fixation of pay may be made from the date of entitlement. In furtherance to it, petitioners were given the benefit on

7.7.2009 as per the recommendation of the Screening Committee in furtherance

to the orders of the State Government. Surprisingly by the order impugned dated 30.5.2012 without any reason or rhyme and affording opportunity to the petitioners, the State Government has cancelled the order dated 23.5.2009. In the order dated 30.5.2012, it is specified that the benefit of four tier grade scale of pay allowed to the Doctors w.e.f. 26.8.2008 shall remain unchanged but the benefit of grade scale of pay is withdrawn however the said circular is contrary to the spirit of the new Rules and in violation of the principle of natural justice, therefore, it may be quashed.

4. It is urged that by the consequential orders dated 1.6.2012 and 25.6.2012 the amount of arrears of grade scale of pay given to the petitioners have been instructed to adjust in the arrears of 6th Pay Commission in place of recovery. It is further urged that the clarification issued by the Government on 23.7.2013 to the order dated 26.8.2008 is also contrary to the spirit of the new Rules, therefore the order of recovery with interest passed on 14.1.2016 may also order to be quashed.

5. On the other hand the respondent State has filed their reply in W.P. No. 10047/2013, which is adopted in all the cases. In the reply it is said that the plea taken by the petitioners is misconceived and bereft of any substance. They have not disputed the applicability of the new Rules. The State Government referring unamended new Rules said that the eligibility for the respective grade scales of pay, as specified shall be subject to the recommendation of the Screening Committee after six years of service in each cadre to the extent of percentage of posts of the junior grade scale, senior grade scale and selection grade scale. But the nature of duties and the posts of the Doctors as they were performing earlier would remain unchanged. It is said that the instructions dated 23.5.2009 were issued for implementation of the scale of pay w.e.f. 26.8.2008 but it was not in conformity to the statutory rules and runs contrary. More so, prior to issuing these instructions, sanction from the Finance Department contemplated under Rule 60 of the M.P. Financial Code Vol-I was not taken. It is said that looking to the contents of the circular dated 23.5.2009, pay fixation of the petitioners were made with retrospective date even including the period prior to 26.8.2008, which may cause financial burden on the State exchequer, however, looking to the Audit Report, the instructions dated 23.5.2009 were found defective, hence it was withdrawn vide order Annexure P-1 dated

30.5.2012. In consequence to it, fixation done earlier were found defective, however, withdrawing the benefit given, order of recovery and its

adjustment in the amount of arrears of 6th Pay Commission have rightly been directed. In support of the said contention, reliance is placed on the

judgment of Chandi Pd. Oniyal Vs. State of Uttarakhand reported in (2012) 7 SCC 412, to submit that any defective order passed by the Government

can be withdrawn and it is within their domain, therefore, issuance of consequential order would not give any cause to the petitioners to file these

petitions asking the reliefs prayed in these petitions. In view of the said submission, it is said, the order impugned passed by the State Government may

not be interfered with, dismissing all the writ petitions.

6. After having heard learned counsel for the parties and on perusal of the pleadings, it is not in dispute, the appointments of the petitioners were made

under the old Rules applicable at the time of their appointment or promotion. Now after commencement of the new Rules w.e.f. 4.1.2008, their

service conditions are governed by these Rules. Rule 2(L) of the new rules deals the service, which means the Madhya Pradesh Public Health and

Family Welfare (Gazetted) Service. Rule 4 specifies the constitution of service, which consists the persons who at the time of commencement of the

new rules were holding, substantively or in the officiating capacity, the posts specified in Schedule I. It is not in dispute that petitioners who were

appointed either as Medical Officers and Dental Surgeon or the Specialists and Dental Specialists are holding the post specified in Schedule I. Rule 5

deals the classification of scale of pay of the service, meaning thereby the scale of pay attached thereto and the number of posts included in services

shall be in accordance with the Schedule I. However, it cannot be doubted that the service conditions with respect to the grade scale of pay of the

petitioners would be governed by Schedule I of the new Rules w.e.f. 4.1.2008. Schedule I of the new Rules has again been substituted by notification

dated 15.2.2011. Prior to the substitution of the Schedule the posts of Specialists, Dental Specialists, Medical Officers and Dental Surgeons were

differently placed in the context of the percentage of the posts in the cadre and tiers of grade scale of pay. The substituted and the old Schedule I may

have material bearing to adjudicate the issue involved looking to the averments made in the petition as well as return, however, they are reproduced to

the extent of relevancy of the posts of these cases.

#### SCHEDULE "I" (Unamended)

| Sr. | Name of Posts | Number | Classification | Scale of Pay | Remarks |
|-----|---------------|--------|----------------|--------------|---------|
|-----|---------------|--------|----------------|--------------|---------|

|     |             |    |    |     |     |
|-----|-------------|----|----|-----|-----|
| No. | included in | of | on | (5) | (6) |
|-----|-------------|----|----|-----|-----|

(1)

service Posts (4)

(2) (3)

10 Specialist 1970 Class-I 10000-325-15200 On recommendation

( a ) 1182 -do- 12000-375-16500 of Screening

Junior Grade 453 -do- 14300-400-18300 Committee after 6

295 -do- 16400-450-20000 Years service in

Scale 60%

40 -do- Junior grade scale, 6

( b )

years service in senior

Senior Grade

grade scale & 6 years

Scale 23%

service in selection

( c )

grade scale eligible for

Selection

senior grade scale,

Grade Scale

selection grade scale

15%

and senior selection

( d )

grade scale

Senior

respectively but there  
Selection  
shall be no  
change in their duties  
on selection into  
senior and selection  
pay scales and they  
shall continue to  
perform emergency  
duties, as well.

11 Dental Specialist 06 Class-I 10000-325-15200 On recommendation

(a) Junior Grade 4 -do- 12000-375-16500 of Screening  
Scale 60% 1 -do- 14300-400-18300 Committee after 6

(b) Senior 1 -do- Years service in  
Grade Junior grade scale and  
Scale 25% 4 years service in

(c) Selection senior grade scale  
Grade Scale eligible for senior

15% grade scale and  
selection grade scale  
respectively but there

shall be no change in  
their duties on

selection into senior  
and selection Grade

pay scales and they  
shall continue to

perform emergency  
duties, as well.

12 Medical Officer 3520 Class-II 8000-275-13500 On recommendation

(a) Junior Grade 2112 Class-I 10000-325-15200 of Screening  
Scale 60% 810 Class-I 12000-375-16500 Committee after 6

(b) Senior 528 Class-I 14300-400-18300 Years service in  
Grade 70 Junior grade scale, 4  
Scale 23% years service in senior

(c) Selection grade scale & 6 years  
Grade Scale service in selection  
15% grade scale eligible for

(d) Senior senior grade scale,  
Selection Grade selection grade scale  
Scale 2% and senior selection  
grade scale

respectively but there  
shall be no change in  
their duties on  
selection into senior  
and selection grade  
pay scales and they  
shall continue to  
perform emergency  
duties, as well.

13 Dental Surgeon 137 Class-II 8000-275-13500 On recommendation

(a) Junior Grade 83 Class-I 10000-325-15200 of Screening  
Scale 60% 34 Class-I 12000-375-16500 Committee after 6

(b) Senior 20 Years service in  
Grade Junior grade scale and  
Scale 25% 4 years service in

(c) Selection senior grade scale and  
Grade Scale 4 years service in  
15% senior grade scale

eligible for senior  
 grade scale and  
 selection grade scale  
 respectively but there  
 shall be no change in  
 their duties on  
 selection into senior  
 and selection grade  
 pay scales and they  
 shall continue to  
 perform emergency  
 duties, as well.

SCHEDULE "I" (Substituted w.e.f. 15.2.2011)

Sr. Name of Number of Classifi Scale of Pay Remarks

No. Posts included in Posts cation (5) (6)

(1) service (3) (4)

(2)

10 Specialist Total Post (1) On the

3057 recommendation of

(a) Junior Class-I P.B. 3(15600-Screening Committe,

Grade Scale 39100) after completing 6

(100%) +Grade Pay Years service in

6600 Junior grade scale,

(b) Senior -do- senior grade scale,

P.B.-

Grade Scale (100% and selection grade

(15600-

after completing 6 39100) scale eligible for

year service in Junior +Grade senior grade scale,

Grade Scale) Pay 7600 selection grade scale

and senior selection

( c )

grade scale

Selection

Grade Scale (100% respectively but  
after completing 6 there shall be no  
year service in Senior change in their duties

Grade Scale) in senior grade scale,  
selection grade scale

(d) Senior and senior selection

Selection

grade scale and they

Grade Scale (5% of

shall continue to

total post after

perform emergency

completing 6 year

duties as well.

service in Selection

Grade Scale) (2) Post of

regional

Director are also

included in

sanctioned

11 Dental Total Class-I P.B.- (1) On the

Specialist Post 12 (15600- recommendation of  
39100)+Grad

Screening Committee,

(a) Junior

e Pay 6600

Grade Scale -do- after completing 6  
(100%) years service in  
P.B.-  
(15600- Junior grade scale,  
(b) Senior  
39100) senior grade scale,  
Grade Scale  
(100% after +Grade Pay and selection grade  
completing 7600 scale eligible for  
6 year service in senior grade scale,  
Junior -do-  
selection grade scale  
Grade Scale)  
and senior selection  
grade scale  
( c ) P.B.-4 respectively but  
Selection (37400-  
there shall be no  
Grade Scale 67000)  
change in their duties  
(100% after +Grade Pay  
completing in senior grade scale,  
-do- 8700  
6 year service in selection grade scale  
Senior and senior selection  
Grade Scale)  
grade scale and they  
shall  
P.B.-4  
(d) Senior continue to

(37400-  
 Selection  
 67000)  
 Grade Scale (5%  
 +Grade  
 of  
 Pay 8900  
 total post  
 after  
 completing  
 6 year service in  
 Selection  
 12 GMreaddie c aSI cOalfef)icer Total 1) On the  
 Post 3790 recommendation of  
 (a) Junior  
 P.B.- Screening Committee,  
 Grade Scale  
 (15600- after completing 6  
 (100%)  
 39100)+Grad years service in  
 Class- e Junior grade scale,  
 II Pay 5400 senior grade scale,  
 Class-I P.B.- and selection grade  
 (15600- scale eligible for  
 (b) Senior  
 39100) senior grade scale,  
 Grade Scale (100%  
 +Grade Pay selection grade scale  
 after completing 6 and senior selection  
 6600

year service in Junior grade scale  
 Grade Scale) respectively but  
 there shall be no  
 Class-I change in their duties  
 ( c ) in senior grade scale,  
 Selection P.B.-3 selection grade scale  
 Grade Scale (100% (15600- and senior selection  
 after completing 6 39100) grade scale and they  
 shall continue to  
 year service in Senior +Grade Pay  
 perform emergency  
 Grade Scale) 7600 duties as well.  
 Class-I  
 (d) Senior  
 Selection  
 P.B.-4  
 Grade Scale (2% of  
 (37400-  
 total post after  
 67000)  
 completing 6 year +Grade  
 service in Selection Pay 8700  
 Grade Scale)  
 13 Dental Total Class- P.B.-(15600- (1) On the  
 Surgeon Post 144 II 39100)+Grad recommendation of  
 e Pay 5400 Screening Committe,  
 after completing 6  
 (a) Junior  
 Years service in  
 Grade Scale

(100%) Class-I P.B.- Junior grade scale, 6

(15600- years in senior grade

39100) scale, and 6 years

(b) Senior +Grade Pay service in selection

Grade Scale grade scale eligible

6600

(100% after for senior grade

completing scale, selection

6 year service in grade scale and

Junior Class-I senior selection

Grade Scale) grade scale

P.B.-3 respectively but

(15600- there shall be no

( c ) 39100) change in their duties

Selection in senior grade scale,

+Grade Pay

Grade Scale selection grade scale

(100% after 7600 and senior selection

completing grade scale and they

Class-I

6 year service in shall continue to

Senior perform emergency

Grade Scale) P.B.-4 duties as well.

(37400-

(d) Senior 67000)

Selection +Grade

Grade Scale (2% Pay 8700

of

total post

after

completing

6 year service in

Selection

Grade Scale)

7. On perusal of the old and substituted Schedule I, the benefits of the junior grade scale, senior grade scale, selection grade scale on the posts namely

Specialists, Dental Specialists, Medical Officers, Dental Surgeon are available to all the 100% posts. Thereafter in the cadre of Specialists and Dental

Specialists, 5% of the total posts in the selection grade scale may get the benefit of senior selection grade scale; while in the cadre of Medical Officer

and Dental Surgeon, only 2% of total posts may get the benefit of the senior selection grade scale. In addition, by the substituted schedule I of the

new Rules either in the cadre of Medical Officer and Specialist or in the cadre of Dental Surgeon and Dental Specialist, the benefit of four tier grade

scales of pay are made available to the post holders. Although in the old schedule I of the new rules in the cadre of Dental Surgeon and Dental

Specialist, the benefit of three tier scales were specified, discriminating with the posts of Medical officers and specialists because they were having

benefit of four tier grade scale of pay.

8. By the unamended Schedule of new Rules in the cadre of Medical Officer and Specialists out of the total posts, 60% posts as specified were

available to get the benefit of junior grade scale, 23% posts for senior grade scale, 15% posts for selection grade scale and 2% posts for senior

selection grade scale; while in the cadre of Dental Specialist and Dental Surgeon, 60%, posts were for junior grade scale, 25% posts for senior grade

scale and 15% posts for selection grade scale. Now by the substituted Schedule I of the new Rules relaxing the percentage of the posts, the benefit of

junior grade scale, senior grade scale and selection grade scale is made available to 100% posts of the Doctor posted either in the cadre of Medical

Officer and specialists or Dental Surgeon and Dental Specialists. Only for grant of senior selection grade scale, the ceiling of 5% posts were specified

for the Specialists and Dental Specialists, while 2% posts for the Medical Officer and Dental Surgeons. Thus, looking to the totality of the aforesaid

circumstances, it can safely be observed that the substituted Schedule I of the new Rules is more rational, equitable and reasonable.

9. It is made clear here that the benefit of four tier grade scale of pay i.e. junior grade scale, senior grade scale, selection grade scale and senior

selection grade scale shall be available on completion of tenure of service i.e. six years in the each grade scale of pay as per the recommendation of

the Screening

Committee to get benefit of the just higher grade scale of pay in ratio to the percentage of the posts as specified in the substituted Schedule I of new

Rules. Thus, in nut shell as per the Rules, for consideration to extend the benefit of junior grade scale, senior grade scale, selection grade scale and

senior selection grade scale, the tenure of service of six years in individual cadre and the performance may be assessed by the Screening Committee

to make recommendation for grant of higher grade scale. The said fact also finds support from the language of the circular dated 26.8.2008. Thus,

either in the unamended Schedule I or in the substituted Schedule I, the cut-off date to apply four tier scales of pay have not been specified. In the

given facts, if we see Rule 4(1), which deals with constitution of service and specifies that after commencement of these Rules if a person is holding

the post substantively or in the officiating capacity, the post specified in Schedule I, shall be included in the connotation 'service' under the new

Rules. Meaning thereby if a Doctor appointed under the new Rules or prior to the same after commencement of these Rules, be treated in the

'service' and hold the post as specified in Schedule I. If the tier of pay scale as specified may be given to the individual cadre of the Specialists,

Medical Officers, Dental Specialist and Dental Surgeon then it may be taken in consideration on completion of the tenure of six years of the service

relates back to their date of appointment and the benefit of particular grade scale of pay would be available as per the recommendations of the

Screening Committee, on completion of the tenure of service in the respective cadre of grade scale of pay and its real benefit may be given w.e.f.

26.8.2008 as directed by the Government circular.

10. Now the effect of the substituted Schedule I to unamended Schedule I of new Rules, is also required to be explained. On substitution of Schedule

I, it would apply from the date as it exists on the date of commencement of the new Rules i.e. 4.1.2008. Thus, persons who are holding the post of

Schedule I and comes within the definition of 'service' would be benefited as

per substituted Schedule w.e.f. the date of commencement of the new Rules i.e. 4.1.2008 and not from 15.2.2011 i.e. the date of substitution. The effect of

substitution of the Schedule or any provision has been considered by the Honâ??ble the Supreme Court in the case of Government of India and

others Vs. Indian Tobacco Association reported in (2005) 7 SCC 396

whereby it has been held that in case substitution is made in the existing statutory provision, it would relate back to the date on which the law came

into existence. However, considering the aforesaid, it can safely be held that the substituted Schedule brought in the new Rules w.e.f. 15.2.2011 would

be given effect w.e.f. 4.1.2008 i.e. the date on which the new Rules came into existence and the percentage of the post to extend the benefit of grade

scale of pay specified in unamended Schedule I of the new Rules would not have any bearing after the substituted Schedule I.

11. Reverting to the context and looking to the discussion of the Rules as made hereinabove, the justification to cancel the order dated 23.5.2009 vide

order dated 30.5.2012, is required to be seen. The order dated 23.5.2009 was issued for explaining the order dated 26.8.2008 to say how the execution

in the matter of grant of grade scale of pay may be made to the Medical Officers, Specialists, Dental Surgeons and Dental Specialists. It is said that

from the date of appointment and on completion of the tenure of six years, the notional pay fixation in each tier of the grade scale of pay may be done

but actual benefit would accrue w.e.f. 26.8.2008. In case notional period came with effect from the date of implementation of the instructions i.e.

26.8.2008, the said date would be relevant for grant of the actual benefit in that particular grade scale of pay. It has also been clarified that on account

of extending the benefit of higher grade scale of pay in any of the particular tier of the grade of scale of pay, the duties and posts of the employees

would not change and they will continue to perform their duties as they were performing earlier. As per the said instructions the benefit was extended

vide order dated 7.7.2009 to all the petitioners. But after about 2 years and 10 months vide order Annexure P-1 dated 30.5.2012, the order dated

23.5.2009 was cancelled and the benefits given to the petitioners have been withdrawn. On perusal of the order impugned dated 30.5.2012 the reason

of cancellation of the order has not been mentioned, however, it is an

unreasoned order.

12. If we examine the justification of the order in the context of stand taken by the respondents/State, then as per new Rules the benefit of four tier

scale of pay is available to the Specialists and the Medical Officers or Dental Specialists and Dental Surgeons on having their eligibility as specified in

Column No. 6 of said Schedule I. However, the benefit available either in the cadre of the Specialists, Medical Officers, Dental Surgeons or Dental

Specialists in all four tier of the grade scales of pay on completion of six years service in individual cadre as per recommendation of the Screening

Committee and for the next higher scale following the similar procedure. However, on substitution of Schedule I of the new Rules, all the Post holders

who are in the junior grade scale would be entitled to get senior grade scale, selection grade scale and senior selection grade scale on completion of

the tenure of six years of service as per recommendation of the Screening Committee. But to extend the benefit of senior selection grade scale, out of

total posts 5% and 2% respectively would be filled up from the cadre of selection grade scale. Therefore, in the context of the Rules, contents of the

circular dated 23.5.2009 may be incorrect but after substitution of Schedule I in the new Rules, it would not make any change as discussed above and

the benefit would be available to the Doctors irrespective to the percentage of their post from the date of their initial appointment and on completion of

their tenure of six years, based on the recommendation of the Screening Committee. Therefore, cancellation of the earlier circular dated 23.5.2009

vide unreasoned order dated 30.5.2012 is arbitrary, unreasonable and contrary to the spirit of the new Rules. In view of the above discussion, the

order impugned dated 30.5.2012 is held as contrary to the new Rules, therefore, the judgment of Chandi Pd. Oniyal Vs. State of Uttarakhand (supra)

relied by the respondents is of no help to them.

13. Simultaneously prior to passing the said circular neither any show cause notice nor an opportunity of hearing were afforded to any of the

beneficiary. Considering the aforesaid, it can safely be observed that if the employees have been given the benefit of grade scale of pay, and any

adverse order is passed withdrawing the said benefit, it may have civil consequences, which cannot be passed in non-

observance of the principle of natural justice. In this regard guidance can be

taken from the judgment of the Supreme Court in the case of Gajanan L.

Parnekar Vs. State of Goa and another reported in 1999 (8) SCC 378. In the said judgment the Apex Court has observed as under:-

8. The manner in which the order dated 21.1.1999/22- 1-1999 came to be made was, to say the least, not proper. The appellant was denied of the benefits of the order dated 16-2-1994 unheard.

There has been a breach of the principle of natural justice and a violation of fair play in action. The earlier order made in favour of the appellant as

early as on 16-2-1994 was rescinded without giving any opportunity to the appellant to show cause against it. Absorption of the appellant as

Headmaster of

Government High School by the order dated 16-2-1994 had not been put in issue through any proceedings by any party at any point of time. That

benefit could not have been taken away from the appellant without affording him any opportunity of hearing, even where the absorption as

Headmaster of the High School had been put in issue. The Principles of natural justice have been respected in their breach. Thus, on this count also

the order impugned Annexure P-1 dated 30.5.2012 cannot be allowed to stand." 14. As per the discussion made hereinabove the order

impugned/circular dated 30.5.2012 is hereby quashed. On account of quashing the said circular, the consequential orders dated 1.6.2012 and 25.6.2012

directing recovery and the adjustment of the amount of grade scale of pay with the arrears of 6th Pay Commission also stand quashed. The State

Government by issuing notifications dated 23.7.2013 and order dated 14.1.2016 made an attempt to clarify the Rules inter alia explaining the

applicability of the benefit of four tier scale of pay but as discussed above the Rules are self explanatory and as per the discussion made hereinabove

the benefit shall be given as per circular of the Government dated 26.8.2008 applying the substituted Schedule I of the new Rules. Therefore, the

clarification issued by the Government and the direction of recovery with interest is contrary to the spirit of the Rules.

15. In view of the foregoing discussion, all these petitions succeed and are hereby allowed. Orders dated 30.5.2012, 1.6.2012, 25.6.2012, 23.7.2013

and 14.1.2016 are hereby quashed. It is hereby directed that the benefit of four tier grade scale of pay would be available to the Specialists, the

Medical Officers, the Dental Specialists and the Dental Surgeons as per substituted Schedule I of the new Rules on completion of six years of their service in the respective grade scale of pay from the date of their initial appointment on recommendation of the Screening Committee. On account of quashing the orders dated 30.5.2012 and consequential orders dated 1.6.2012, 25.6.2012, 23.7.2013 and 14.1.2016 of recovery and adjustment of the amount of the grade scale of pay with the arrears of 6th Pay Commission are also quashed,

16. Consequent upon quashing the aforesaid orders, it is hereby directed that the Government shall extend the benefit of respective grade scale of pay to the petitioners as per their entitlement and shall finalize the same as per the substituted Schedule I of the new Rules in view of the discussion made hereinabove. The said exercise must be completed within a period of four months reviving the order dated 7.7.2009. Accordingly the arrears of the grade scale of pay be paid to them within a period of two months and shall not be adjusted in the arrears of 6th Pay Commission. In case the recovery is already made, it be reimbursed. Let this entire exercise be complete within six months from today otherwise the petitioners would be entitled to claim interest on the amount of arrears as per the prevalent Bank rate. In the facts and circumstances of the case, the parties are directed to bear their own costs.

Let a photocopy of this order be placed in the record of each petition for its record.

In light of the aforesaid as recovery stands concluded, the present writ petition also stands allowed. The impugned orders dated 30-05-2012

(Annexure-P-5), 01-06-2012 (Annexure-P-6) and 08-06-2016 and 10-10-2013 (Annexures-P-9 and P-10) are hereby quashed. In case recovery is

already been made the amount be recovered back to the petitioner within a period of four months from the date of receipt of certified copy of this order.

Certified copy as per rules.