

(2018) 04 MP CK 0099
In the Madhya Pradesh High Court
Case No : WP No.6138 OF 2018

Dr Vijay Kumar Sharma

APPELLANT

Vs

State Of Madhya pradesh And Others

RESPONDENT

Date of Decision : 16-04-2018

Acts Referred:

Citation : (2018) 04 MP CK 0099

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

Bench : Single Bench

Advocate : Abhishek Tugnawat

Final Decision : Allowed

Judgement

The petitioner before this court is aggrieved by the orders dated 3009-2016 (Annexure-P-4 and P-5), by which recovery has been ordered against

him.Â The recovery in question is being done on account of higher pay scale (Time Pay Scale) granted to the petitioner from time to time.Â

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.Â 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, therefor, 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

confirmity 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 Part I of Section 5 (6)

(1) service Posts (4)

(2) (3)

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

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

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

60% 295 -do- 16400-450-20000 Years service in

40 -do- Junior grade scale, 6

(b) Senior

years service in senior

Grade

grade scale & 6 years

Scale 23%

service in selection

(c)

Selection grade scale eligible for

Grade Scale senior grade scale,

15% selection grade scale

(d) Senior and senior selection

Selection grade scale

respectively but there

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 Specialist06 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 Grade 1 -do- Years service in

Scale 25% Junior grade scale and

(c) Selection 4 years service in

Grade Scale senior grade scale

15% 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.

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 Grade 528 Class-I 14300-400-18300 Years service in

Scale 23% 70 Junior grade scale, 4

(c) Selection years service in senior

Grade Scale grade scale & 6 years

15% service in selection

(d) Senior grade scale eligible for

Selection Grade senior grade scale,

Scale 2% selection grade scale
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 Grade 20 Years service in

Scale 25% Junior grade scale and

(c) Selection 4 years service in

Grade Scale senior grade scale and

15% 4 years service in

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

respectively but

(d) Senior

there shall be no

Selection

change in their

Grade Scale (5% of total

duties in senior

post after completing 6

grade scale,

year service in Selection

selection grade

Grade Scale)

scale and senior

selection grade

scale and they

shall continue to

perform

emergency

duties as well.

(2) Â Post Â Â

of regional

Director

arealsoÂ

included in

sanctioned

11 Dental Total Class-I P.B.- (15600- (1) On the

SpecialistÂ Post 39100)+Grad e recommendation

12 Pay 6600 of

(a) Junior

Grade Â Scale (100%) -do- Screening

P.B.- (15600-
 Committe, after
 39100) +Grade
 (b) Senior completing 6
 Grade Â Scale (100% Pay 7600
 years service in
 after completing
 Junior grade
 Â Â Â Â Â 6 year service
 in Junior Grade Scale) scale, senior
 grade scale, and
 -do- P.B.-4 (37400- selection grade
 (c) Selection
 67000) +Grade scale eligible for
 Grade Â Scale (100%
 after completing Pay 8700 senior grade
 Â Â Â Â Â 6 year service scale, selection
 in Senior Grade Scale) grade scale and
 senior selection
 (d) Senior
 -do-
 P.B.-4 (37400- grade scale
 Selection 67000) +Grade respectively but
 Grade Â Scale (5% Pay 8900 there shall be no
 Â Â Â Â of change in their
 Â Â Â Â Â Â Â Â Â Â Â
 duties in senior
 total post
 grade scale,
 Â Â Â Â Â Â Â Â Â Â Â

after completing selection grade
 6 year service scale and senior
 in Selection selection grade
 Grade Scale)
 scale and they
 shall
 continue to
 12 Medical Officer Total Class- 1) On the
 Post II recommendation
 (a) Junior 3790 of
 Grade Scale (100%)
 Screening
 Committe, after
 (b) Senior completing 6
 years service in
 Junior grade
 scale, senior
 grade scale, and
 P.B.- (15600- selection grade
 39100)+Grade scale eligible for
 Pay 5400 senior grade
 Grade Scale (100% after Class-I P.B.- (15600- scale, selection
 completing 6 year service 39100) +Grade grade scale and
 in Junior Grade Scale) Pay 6600 senior selection
 grade scale
 respectively but
 (c) Selection there shall be no
 Grade Scale (100% after change in their
 completing 6 year service Class-I P.B.-3 (15600- duties in senior
 grade scale,

in Senior Grade Scale) 39100) +Grade

selection grade

Pay 7600

scale and senior

selection grade

(d) Senior scale and they

Selection shall continue to

Grade Scale (2% of total perform

post after completing 6 P.B.-4 (37400- emergency

year service in Selection Class-I 67000) +Grade duties as well.

Pay 8700

Grade Scale)

13 Dental Total Class- P.B.-(15600- (1) On the

Surgeon Post II 39100)+GradÂ recommendation

144 e Pay 5400 of

(a) Junior Screening

Grade Â Scale (100%) Committe, after

Class-I P.B.- (15600- completing 6

39100) +Grade

Years service in

(b) Senior Pay 6600 Junior grade

Grade Â Scale (100% scale, 6 years in

after completing

senior grade

Â Â Â Â Â 6 year service

scale, and 6

in Junior Grade Scale)

years service in

P.B.-3 (15600- selection grade

Class-I

(c) Selection 39100) +Grade scale eligible for
Grade Â Scale (100% Pay 7600 senior grade
after completing scale, selection
Â Â Â Â Â 6 year service grade scale and
in Senior Grade Scale) senior selection
grade scale

P.B.-4 (37400- respectively but

(d) Senior 67000) +Grade there shall be no
Selection Class-I Pay 8700 change in their
Grade Â Scale (2%
duties in senior

Â Â Â Â of

grade scale,

Â Â Â Â Â Â Â Â Â Â Â

selection grade

total post

Â Â Â Â Â Â Â Â Â Â Â scale and senior

after completing selection grade

Â Â Â Â Â 6 year service scale and they

in Selection shall continue to

Grade Scale) perform

emergency

duties as well.

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 of "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 Hon'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 denuded 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.â? 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.Â The impugned orders dated 30-09-2016 and 28-

11-2016 (Annexure-P-4 and P-5Â 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.