



207 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-14316-2019

Date of Decision: 19.09.2025

Raj Kumar

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ravinder Malik (Ravi), Advocate for the petitioner.

Mr. Ravi Partap Singh, DAG, Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 21.10.2017 whereby his claim for the post of Dental Assistant in Haryana Armed Police, (HAP) Hospital, Madhuban, District Karnal has been rejected. He is further seeking direction to respondent to pay him higher pay scale for the period he worked as Dental Assistant (Group-C).

2. On 27.05.2019, the following order was passed:

“Learned counsel submits that the services of the petitioner was regularized on 31.03.2006, as per policy dated 01.10.2003 (P-1) by the police department. Thereafter, vide order dated 23.07.2011(P-3), the petitioner being duly eligible was ordered to be posted as Dental Assistant in the office of Dental Surgeon, HAP Hospital, Madhuban. Thereafter, in view of letter dated 04.02.2015, the petitioner submitted representation and legal notice (P-6 and P-7) for appointment to the post of Dental Assistant but the same was rejected vide impugned order dated 21.10.2017 (P-10) only on the ground that there is no sanctioned post of Dental Assistant. Learned

counsel submits that the petitioner is entitled for promotion under the Haryana Health Department Dental (Group C) Service Rules, 1997 and the petitioner is also performing the duties of higher responsibilities attached with higher post w.e.f 04.01.2008.

Learned counsel submits that the appointment can be made by transfer or deputation of an officer/official in service of any State Government or the Government of India.

Notice of motion for 30.10.2019.

On asking of the Court, Mr. Kiran Pal Singh, AAG, Haryana accepts notice on behalf of the State. Learned counsel for the petitioner shall supply copy of the petition to learned State counsel by today itself.

In the meantime, the respondents shall consider the claim of the petitioner as on deputation posting.”

3. Learned counsel representing the petitioner, during the course of arguments, submitted that he does not press his prayer for appointment as Dental Assistant, however, petitioner is entitled to salary of Dental Assistant for the period he performed duties of Dental Assistant. He was not performing duties of Class-IV Employee whereas he was performing duties of Dental Assistant (Group-C Employee). It is settled law that an employee is entitled to salary for the duty he has discharged. An employee cannot be asked to perform duties of higher post and paid salary of lower post.

4. *Per contra*, learned State counsel submits that petitioner was deputed in the Hospital as Water Carrier. There is no post of Dental Assistant in the Hospital. The Doctor with whom petitioner had worked has clarified vide her letter dated 02.06.2017 that petitioner assisted her in her professional work and not as any kind of dental assistant.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. The petitioner for the sake of higher amount of salary is relying upon letter dated 16.09.2016 of Dental Surgeon. For the ready reference, the said letter is reproduced as below:

“Haryana Armed Police Hospital, Madhuban, Karnal

To whom it may concern

(Dr. Seena Kumari) Certified that Sh. Raj Kumar 2/16 WC has been working in Haryana Armed Police Hospital, Madhuban and working in Dental Department since 04.01.08 to 16.9.16. He has complete knowledge of assisting Dental Surgeon, Handling of Dental Instruments, Dental Material, Dental Scaling, operating of x-ray and developing of x-ray films. He is very hard working honest employee of this Hospital.

Sd/-

*(Dr. Reena Kumari)
Dental Surgeon
HAP Hospital, Madhuban
Madhuban”*

7. The respondent is relying upon letter dated 02.06.2017 of aforesaid Doctor which is reproduced as below:

“To

*The Commandant
2nd Battalion
HAP Madhuban.*

Subject:- With reference to your letter no 5995/Steno dated 25.05.2017 the following comments are given below.

With reference to order no 10545-49/OSI Dated 23.07.11, Sh. Raj Kumar 2/16 W/C (Class-IV) was attached with me by commandant 2nd Bn. HAP Madhuban. With reference to vide memo no. 19146-49/A-3/29 dated 19.10.2012 I never proposed class-IV Raj Kumar 2/16 WC as "dental assistant". This term simply meant his

assistance and help in my professional work only and not any kind of 'Designation' a "Dental Assistant".

I never used a term dental assistant for him in my given experience letter no. 1871 dated 16.09.16.

Thanking you,

Sd/-

*Dr. Reena Kumari
Dental Surgeon,
IVth Battalion
HAP Madhuban."*

8. From the perusal of above quoted letters, it is evident that Doctor issued a general certificate to the effect that petitioner has knowledge of assisting Dental Surgeon in handling dental instruments and he is very hard working employee. She clarified by letter dated 02.06.2017 that she never proposed Class-IV employee Raj Kumar as Dental Assistant. These two letters make it clear that Doctor might have availed assistance of petitioner while discharging her duties as Dental Surgeon. Neither Dental Surgeon was competent to appoint petitioner as Dental Assistant nor was he ever appointed by any other authority. There is no post of Dental Assistant with respondent. It seems that it was a mutual understanding of petitioner and Dental Surgeon. For the convenience of Surgeon, the petitioner assisted her. The respondent never appointed him as Dental Assistant, thus, State cannot be asked to pay salary of Dental Assistant to the petitioner.

9. In the wake of above discussion and findings, the instant petition deserves to be dismissed and accordingly ***dismissed***.

**(JAGMOHAN BANSAL)
JUDGE**

19.09.2025

Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No