

**Dr. V.P. Goyal Vs. State of U.P. and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/449117](http://sooperkanoon.com/449117)

**Court :** Allahabad

**Decided On :** Jan-24-2002

**Reported in :** 2002(1)AWC551; [2002(93)FLR897]; (2002)1UPLBEC904

**Judge :** M. Katju and ;S.K. Singh, JJ.

**Appeal No. :** C.M.W.P. No. 32830 of 2001

**Appellant :** Dr. V.P. Goyal

**Respondent :** State of U.P. and ors.

**Advocate for Def. :** S.C.

**Advocate for Pet/Ap. :** Party-in-person and ;Swapnil Kumar, Adv.

**Disposition :** Petition allowed

**Judgement :**

**Katju, J.**

1. Heard learned counsel for the parties.

2. This writ petition has been filed praying for a writ of certiorari to quash the Impugned order dated 28.2.2001 (Annexure-5 to the petition) and for a mandamus directing the respondents to issue order for notional promotion and grant of personal pay scale to the petitioner with interest.

3. The petitioner who possessed a M.B.B.S. degree joined as Medical Officer in Zila Parlshad Dispensary, Etmadpur, district Agra on 6.10.1963 on a substantive post, which was under the control of Panchayat Raj Department, State of U. P.

4. Under the provincialization scheme, the State Government in the year 1977 provincialised the dispensary and the petitioner gave option on 23.12.1977 and opted to join the service of Medical Department of the U. P. Government. However, the petitioner was denied benefit of his service in the Panchayat Raj Department from 6.10.1963 to 23.12.1977. Hence, he approached the U. P. Public Service Tribunal which allowed his claim petition by means of its judgment dated 30.7.1999 (Annexure-1 to the petition). The Tribunal granted the petitioner benefit of seniority from 6.10.1963 and also promotion and interest as well as arrears.

5. Against the aforesaid judgment of the Tribunal, the State Government filed a writ petition in this Court which was dismissed on 20.12.1999 vide Annexure-2 to the petition. This judgment of this Court became final.

6. Subsequently, the respondents fixed the petitioner's seniority as per the direction of the Tribunal vide Annexure-3 to the petition, but did not grant him the other benefits awarded by the Tribunal, hence the petitioner approached this Court by another writ petition being Writ Petition No. 17288 of 2000 wherein a direction was given to decide the representation of the petitioner. This representation has been rejected by the impugned order. Hence, this writ petition.

7. In our opinion, when this Court had in its judgment dated 20.12.1999 (Annexure-2 to the petition) upheld the award of the Tribunal and the judgment of this Court became final, the matter had become conclusive, and hence we cannot understand how the petitioner can be denied the benefits which have already been granted to him by the Tribunal in its judgment Annexure-1 to the petition and this Court in its Judgment Annexure-2 to the petition.

8. The petitioner admittedly retired on 30.7.1997 and now he can only be given notional promotion and other benefits with arrears.

9. A counter-affidavit has been filed and we have perused the same. In paragraph 6 of the counter-affidavit, a reference has been made to the cases of Dr. Kamal Uddin and Dr. R.D. Tripathi but we do not see how these cases could have been relevant to the petitioner's case, since the petitioner's case has become final by the judgments which are Annexures-1 and 2 to the petition. It seems that the respondents never challenged the judgment of this Court dated 20.12.1999 and hence they cannot challenge the same in these proceedings. It seems to us that the respondents have unnecessarily harassed the petitioner.

10. The petition is therefore, allowed and a mandamus is issued to the respondents to give notional promotion, personal pay scale with arrears and interest at 12% as claimed by the petitioner.

11. The petition is allowed. No order as to costs.

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