

**IN THE HIGH COURT OF JUDICATURE FOR THE STATES OF PUNJAB
AND HARYANA, AT CHANDIGARH**

Date of Decision: August 26, 2015

Civil Writ Petition No. 17725 of 2002

Daya Nand

---Petitioner

Versus

State of Haryana and others

---Respondents

Civil Writ Petition No. 9791 of 2002

Des Raj and others

---Petitioners

Versus

State of Haryana and others

---Respondents

Civil Writ Petition No. 11150 of 2002

Mathura Dutt

---Petitioner

Versus

State of Haryana and others

---Respondents

Civil Writ Petition No. 14237 of 2002

Tek Chand & Ors.

---Petitioner

Versus

State of Haryana and others

---Respondents

Civil Writ Petition No. 17727 of 2002

Sanwat Singh and others

---Petitioners

Versus

State of Haryana and others

---Respondents

Civil Writ Petition No. 5615 of 2005

Rameshwar Dass

---Petitioner

Versus

State of Haryana and others

---Respondents

CORAM:Hon'ble Mr. Justice Satish Kumar Mittal**Hon'ble Mr. Justice Mahavir S. Chauhan**

Present: Shri P.L. Verma, Advocate, for the petitioners.

Mrs. Tanisha Peshawaria, Deputy Advocate General, Haryana, for
the respondents.

1. *Whether Reporters of local papers may be allowed to see the judgment? Yes/No*
2. *To be referred to the Reporter or not? Yes/No*
3. *Whether the judgment should be reported in the Digest? Yes/No*

Mahavir S. Chauhan, J.

Civil Writ Petition Nos. 9791 of 2002, 11150 of 2002, 14237 of 2002, 17725 of 2002, 17727 of 2002 and 5615 of 2005 involve common question of law and, as such, are proposed to be disposed of by this common order being passed in Civil Writ Petition No. 17725 of 2002, Daya Nand versus State of Haryana and others. Basic facts have also been noted from this petition.

Petitioners, who had joined employment of the respondents as Class-IV employees and were later promoted to Class-III Posts, are aggrieved by rules 4, 5, 8, 15 and 17 of the Haryana Civil Services (Assured Career Progression) Rules, 1998 (here-in-after referred to as the 'ACP Rules') in so far as by application of these rules pay of some of them has been reduced/wrongly fixed, while one of them, namely Rameshwar Dass (petitioner in CWP No. 5615 of 2005) has been denied the ACP step up only because he was promoted from a post of Class-IV to the one in Class-III category. Pay of the petitioners was reduced under the garb of the ACP Rules without affording them an opportunity of being heard and thus rules of natural justice have been violated.

Petitioner (in CWP No. 17725 of 2002) was appointed to Class-IV

post on November 19, 1961 and was promoted to a class-III post on May 16, 1972. His pay was fixed in the pay scale of Rs. 950-1500 with effect from January 01, 1986 and with effect from January 01, 1994 he was granted first/second higher standard pay scale of Rs. 1400-2600/1600-2900 on completion of ten/twenty years of regular service. Scale of pay of Rs. 1400-2600 was revised by the respondent-State to Rs. 5000-7850 and pay of the petitioner was fixed at Rs. 5150.00 with effect from January 01, 1996. However, on introduction of the ACP Rules, petitioner's pay scale was reduced to Rs. 3050-4590 with effect from January 01, 1996 vide pay fixation slip, Annexures P1 and P2, without affording him an opportunity of hearing and without serving upon him a notice to show cause against such reduction of pay scale.

In the counter filed by the respondents it has been stated that previously a scheme of Higher Standard Scale was in place but it was discontinued with effect from December 31, 1995 and a new Scheme (ACP Rules) was introduced with effect from January 01, 1996 according to which first and second progression scales were to be granted only with reference to the post on which a Government employee was directly recruited as a first entrant into Government service. As the petitioner was initially recruited to a Class-IV (or say Group-D) post and was subsequently promoted to a Class-III (or say Group-C) post. Functional pay scale of a Class-IV post prior to introduction of the ACP Rules was Rs. 750-940 and, as such, the petitioner was entitled to fixation of his pay in first ACP scale of Rs. 2650-4000 and the second in ACP scale of Rs. 3050-4590. It has also been stated that first and second ACP Scales of Rs. 4000-6000 and Rs. 5000-7850 were available only to direct recruits to Class-III posts.

After hearing learned counsel for the parties we find that fixation of pay of the petitioners and denial of such fixation to Rameshwar Dass (petitioner in CWP No. 5615 of 2005) vide letter dated January 29, 2004 (Annexure P2 in CWP

No. 5615 of 2005) under the ACP Rules, ex facie, are wrong and an exercise at rectification thereof is needed while it has been conceded on behalf of the respondents that before reducing the pay of the petitioners and refusing ACP to Rameshwar Dass (petitioner in CWP No. 5615 of 2005) no opportunity of being heard and to show cause against such reduction/denial was given to them.

In the consequence we set aside action of the respondents in reducing the pay of the petitioners and denial of ACP to them, as also to Rameshwar Dass (petitioner in CWP No. 5615 of 2005 vide letter dated January 29, 2004) and direct the respondents to reconsider and decided the matter afresh and pass a speaking order after affording an opportunity of being heard to the petitioners.

The petitions are disposed of in the afore-stated terms.

[SATISH KUMAR MITTAL]
JUDGE

[MAHAVIR S. CHAUHAN]
JUDGE

August 26, 2015
adhikari