

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

**CWP No.14825 of 2011
Decided on : 15.10.2015**

Ashok Kumar

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. R.K. Arora, Advocate
for the petitioner.

Mr. L.S. Virk, Addl. AG, Punjab.

G.S. Sandhawalia , J. (Oral)

On 25.04.2013, it was noticed by the Co-ordinate Bench that the benefit of grant of ACP on completion of 14 years of service stood granted to the petitioner on 03.12.2011 (Annexure R-1). The arrears were, thereafter, also released and a sum of Rs.84,745/- stood deposited in the account of the petitioner as has been noticed in the subsequent order dated 11.07.2013.

The issue that was left was for stepping up of his pay equal to pay of Suresh Kumar a junior which had been granted to the petitioner at one point of time and withdrawn, which was subject matter of challenge.

By the additional affidavit filed, it has been explained that the petitioner had been on leave without pay for 364 days during the year 1992 and 1993 and therefore his increment has

been deferred and due to that reason his pay was less to his junior Suresh Kumar. The relevant part of the affidavit reads as under:-

“4. That after analysis of the comparative statement of the pay of the petitioner Ashok Kumar and junior Suresh Kumar, it is emphatically clear that claim of the petitioner is not sustainable. The pay of the petitioner is less than the junior Suresh Kumar on 01.11.1993 on account of the reason, the petitioner availed leave without pay for 364 days during the year 1992 and 1993 and due to leave without pay, his increment has been deferred for one year as per Rules and due to this reason pay of the petitioner is less than the junior Suresh Kumar. It is also clear that had the petitioner not availed leave without pay, his pay would have been more than his junior Suresh Kumar.”

It is not disputed that in the petition also this fact has been mentioned that the petitioner had been on without pay leave for 1 year, 6 months and 14 days during 1991-92.

Counsel for the petitioner had taken several opportunities to rebut the stand and very fairly submits that in view of the additional affidavit his claim of raising the challenge to the order of re-fixation is not justifiable and the same is rejected.

In such circumstances, the present writ petition is disposed of as having been rendered infructuous, as relief has already partly been granted to the petitioner on the first account.

OCTOBER 15, 2015
Naveen

(G.S. SANDHAWALIA)
JUDGE