

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

CWP-18744-2012 (O&M)
Date of decision : 27.03.2015

Om Parkash

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Parminder Singh, Advocate,
for the petitioner.

Mr. R.T. Redhu, DAG, Haryana.

JITENDRA CHAUHAN, J. (Oral)

Prayer in the present petition filed under Articles 226 and 227 of the Constitution of India, is for quashing/setting aside of office order dated 28.06.2012 (Annexure P-2) whereby, the petitioner has been denied the benefit of 3rd ACP.

It is contended that the petitioner joined the service of respondents on 14.02.1972, as Conductor. However, his services were terminated on 26.09.1983 in pursuance of the finding recorded in the inquiry that there was non-punching of tickets amounting to Rs.1.20 by the petitioner. Against the order of termination, the petitioner

approached the Labour Court which culminated into reinstatement of the petitioner on the statement made by him as well as the Management that the workman/petitioner is reinstated with continuity of service, however, he will not claim any back wages. This fact is not disputed by the learned State counsel, however, he submits that the petitioner did not serve in the interregnum period w.e.f. 26.09.1983 till 16.03.1986, therefore, he has not rendered satisfactory service for thirty years and is not entitled for grant of 3rd ACP.

The case of the petitioner for grant of ACP is governed by the Haryana Civil Services (Assured Career Progression) Rules, 2008. Sub-rule 3 of Rule 7 thereof, reads thus:-

“(3) Every Government servant covered under the general ACP scheme shall, for the purposes of drawal of pay, be eligible for the third ACP grade pay (given in column 6 of Part II of Schedule I in respect of the functional pay scale or pay structure of his post) if he has completed 30 years of regular satisfactory service and has not got any financial upgradation in the last ten years and has not got more than two financial upgradation so far. Financial upgradation in this context includes functional promotion in the hierarchy or further

revision/ modification of the pay structure for the same post after 1.1.2006.”

Thus, it is stipulated that on completion of 30 years of regular satisfactory service w.e.f. 01.01.2006, the employee is entitled for the grant of 3rd ACP grade and for the purpose of these rules, 'regular satisfactory service' means continuous service counting towards seniority under Haryana Government, including continuous service in Punjab Government before re-organization, commencing from the date on which the Government servant joined his service after being recruited through the prescribed procedure or rules etc. for regular recruitment, in the cadre in which he is working at the time of being considered his eligibility for grant of ACP pay band and grade pay under these rules and further fulfilling all the requirements prescribed for determining the suitability of grant of ACP pay structure.

It is to be noticed that the learned Labour Court passed the award in terms of the statements made by the workman/petitioner that he shall not claim the benefit of back-wages. Once, the services of the petitioner were reinstated by the competent authority and the petitioner was held entitled to 1st and 2nd ACP and there being no break in service, there does not seem to be any foundation of the logic given by the State for withholding the 3rd ACP.

Consequently, it is held that the petitioner has rendered 30 years' of regular satisfactory service and thus, has become entitled to the 3rd ACP. The necessary consequential benefits be paid to the petitioner within a period of three months from the date of receipt of a certified copy of this order. In case, the amount is not paid within the stipulated period, the same shall carry interest at the rate of 8.5% per annum from the date of filing the present writ petition, till the payment is made.

Allowed.

27.03.2015

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**(JITENDRA CHAUHAN)
JUDGE**