

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.20662 of 2012
Date of Decision: May 08, 2015

Dr.Kalyan Singh & others

...Petitioners

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.R.K.Malik, Senior Advocate with
Mr.Teupal Dhull, Advocate,
for the petitioners.

Mr.Keshav Gupta, AAG, Haryana,
for the State.

AMIT RAWAL, J. (Oral)

By way of filing the present writ petition, the petitioners have claimed for grant of ACP from the date their juniors have been granted by relying upon Rule 12 of the Haryana Civil Services (Assured Career Progression) Rules, 2008 (for short “2008 Rules”).

Mr.R.K.Malik, learned Senior Counsel assisted by Mr.Teupal Dhull, Advocate, appearing for the petitioners submits that earlier the petitioners were recruited as Veterinary Surgeons, but thereafter they were directly appointed as Sub Divisional Officers. However, simultaneously the respondent authorities also promoted Veterinary Surgeons to the post of Sub

Divisional Officer and after promotion, they have been given higher pay scale than the petitioners,. thus, there is an apparent violation of Rule 12 of 2008 Rules. In support of his contention, he relies upon the ratio decidendi culled out by the Hon'ble Supreme Court in Commissioner and Secretary to Govt. of Haryana and others Versus Ram Sarup Ganda and others, Civil Appeal No.3250 of 2006 (arising out of Special Leave Petition (Civil) No.20264 of 2004) and large number of connected matters.

Mr.Keshav Gupta, learned Assistant Advocate General, appearing for the State submits that the petitioners are not entitled to ACP grade as they were directly appointed as Sub Divisional Officers and, therefore, the benefit of service rendered as Veterinary Surgeons cannot be taken into consideration.

I have heard the learned counsel for the parties and appraised the paper book.

Rule 12 of the Rules reads thus:-

“12. Admissibility of stepping up in certain cases:

If the service rules provides for or circumstances warrant filling up of a post through direct recruitment as well as through promotion, benefit of stepping up of pay band and grade pay shall be admissible to the directly recruited senior Government servant if the junior promoted government servant junior to him drawing salary in higher pay band and grade pay on the basis of benefits of ACP upgradation. However, the benefit of stepping up shall not be admissible to a promotee if he has already got three financial upgradation as provided under these rules in his service career.”

By going through the language of Rule 12 of the Rules, there is

no ambiguity that the benefit of stepping up of pay band and grade pay shall be admissible to the directly recruited senior Government servant in case the juniors are promoted to him and drawing the higher pay band and grade pay on the basis of the benefit of ACP. It is the settled proposition of law that the person, who is senior, is entitled to pay at par with his junior.

Be that as it may, the fact remains that the respondents do not appear to have considered Rule 12 of 2008 while not granting benefit of higher ACP to the petitioners. Therefore, I deem it appropriate to issue directions to the respondents to consider the case of the petitioners for grant of higher ACP by considering the service rendered by them as Veterinary Surgeon and also by considering Rule 12 of 2008 Rules, according to which the petitioners are entitled to higher pay from the date when their juniors have been granted higher ACP.

It is expected that the respondents authorities shall undertake the exercise of considering the case of the petitioners as expeditiously as possible, preferably within a period of four months from the date of receipt of certified copy of this order and in case they consider to grant the relief to the petitioners, the same shall be granted to them within a further period of two months by passing a speaking and reasoned order.

The writ petition stands disposed of accordingly.

May 08, 2015
ramesh

(AMIT RAWAL)
JUDGE