

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

C.W.P No. 5047 of 2015 (O&M)

Date of decision : March 19, 2015

Dharambir Singh,

..... Petitioner

v.

Uttar Haryana Bijli Vitran Nigam & others,

..... Respondents

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**CORAM : HON'BLE MR. JUSTICE AJAY TEWARI**

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Present : Mr. R.N Sharma, Advocate  
for the petitioner.

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- 1. Whether Reporters of Local Newspapers 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 ?**

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**Ajay Tewari, J (Oral)**

By this writ petition, the petitioner has challenged the order, Annexure P-8, whereby not only has he been refused the third ACP but even the second ACP granted to him has been withdrawn.

The petitioner was appointed as Junior Scale Stenographer on 15.7.1980, and by an order dated 4.6.1999, he was promoted as Senior Scale Stenographer. Admittedly, the relevant rule for promotion for Senior Scale Stenographer lays down as follows :-

“ 3.0 Sr. Scale Stenographer.

(i) xx xx xx

(ii) Those existing Jr. Scale Stenographers (as on the date of issue of this notification) who have neither qualified Hindi stenography/type test nor attain basic proficiency in word processing on computer may be allowed to be promoted as Sr. Scale Stenographer with

the conditions that they will have qualify Hindi shorthand/type test or will attain basic proficiency in word processing on computer, within a period of one year from the date of promotion, failing which their increments will be stopped and they shall not be considered for promotion as PA till they qualify Hindi Stenography/Type test or attain basic proficiency in word processing on computers to be certified by the DGM/IT or the Institutes recognized by the DGM/IT UHBVN, Panchkula and junior eligible person(s) will be promoted as PA and the senior person(s) will lose seniority accordingly.”

It is not disputed that the petitioner had to clear the mandatory test within one year from the date of his promotion. However, counsel for the petitioner has pointed out that when the petitioner was promoted in 1999, the rules were not in existence and at that time period of five years was granted for passing the mandatory test. Be that as it may, it is also not disputed that having been promoted in the year 1999, the petitioner was able to pass the type test only in the year 2009. As regards the grant of ACP, the Haryana Civil Service ACP Rules govern the field. Rule 7 is to the following effect :-

“ 7. Eligibility for Grant of ACP grade pay under the general ACP scheme :-

(1) Every Government servant covered under the general ACP scheme shall for the purpose of drawal of pay, be eligible for the first ACP grade pay (given in column 4 of Part II of Schedule I in respect of the functional pay scale or pay structure of his post) If he has completed 10 years of regular satisfactory service and has not got any financial up-gradation in these ten years with reference to the functional pay structure of the post to which he was recruited as a direct entrant. Financial up-gradations 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.

(2) Every Government servant covered under the general ACP scheme shall, for the purposes of drawal of pay, be eligible for the second ACP grade pay (given in column 5 of Part II of Schedule I in respect of the

functional pay scale or pay structure of his post) if he has completed 20 years of regular satisfactory service and has not got any financial up-gradation in the last ten years. Financial up-gradations 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.

(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 up-gradation in the last ten years and has not got more than two financial up-gradation so far. Financial up-gradations 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.

(4) In case of a Government servant who gets promoted, he will be considered for the next ACP grade pay after he completes 10 years of regular satisfactory service in the promotional post without any financial up-gradation and will be entitled to the next ACP grade pay with reference to the grade pay of the promotional post he holds;

Provided that a Government servant shall not be entitled to avail ACP up-gradation if, he has already availed of three financial up-gradation of any kind in his career.” (Emphasis supplied)

It is against the backdrop of these rules that the entitlement of the petitioner for the grant of 2<sup>nd</sup> and 3<sup>rd</sup> ACPs has to be examined. To my mind, had the petitioner passed the basic proficiency in word processing within the time granted by his promotion order (or the rules), his promotion would have been validated from the date when he was so promoted and he would have come within the parameter of the phrase 'completed 10 years of regular satisfactory service', and on 3.6.2009, he would have become entitled to the grant of next ACP grade. What has transpired in this case is, however, very different. The petitioner has been able to clear the mandatory test only on 27.1.2009. In these circumstances, it has to be seen whether his

service till that time is regular satisfactory service. In my opinion, once a person is not able to clear any mandatory requirement for promotion within the time granted therefor, it cannot be said that during that period his service was satisfactory.

The second argument of counsel for the petitioner is that in the 30 years service, the petitioner was entitled to at-least 3 financial up-gradations. It is inconceivable that on the one hand, an employee is not getting regular increments because he is not able to clear any mandatory requirement but on the other hand that period is sought to be counted for the grant of ACP.

Counsel for the petitioner has further argued that after the petitioner passed the type test, he was given notional benefit of all the increments he would have earned. That would also not cure the defect that the petitioner was not able to clear the mandatory requirement for the purpose of ACP because ACP is granted as a substitute for promotion and a person who is not entitled for promotion during a particular period cannot be considered for ACP. Consequently, finding no merit in this writ petition, the same is dismissed.

**March 19, 2015**  
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**( AJAY TEWARI )**  
**JUDGE**