

In the High Court of Punjab and Haryana at Chandigarh

LPA No. 1755 of 2015 (O&M)

Date of Decision: December 09, 2015

State of Punjab and others

---Appellants

versus

Neelam Kumari

---Respondent

**Coram: Hon'ble Mr. Justice Rajive Bhalla
Hon'ble Mrs. Justice Rekha Mittal**

Present: Ms. Munisha Gandhi, Addl. A.G.Punjab

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

Rekha Mittal, J.

CM No.3772-LPA of 2015

Prayer in this application is to condone delay of 133 days in filing the appeal.

We have heard counsel for the applicant, perused averments in the application and as sufficient cause has been shown, allow the application and condone delay of 133 days in filing the appeal.

LPA No. 1755 of 2015

The present appeal has been directed against the judgment dated 8.5.2015 passed by the learned Single Judge allowing the petition filed by the respondent and holding her entitle to grant of 09 years service

benefit under the Assured Career Progression Scheme (in short “ACP Scheme”) with a direction to release the consequential benefits within a period of 04 months.

Counsel for the appellants contends that the respondent was not allowed the benefit of ACP as she did not satisfy the criteria laid down for the purpose in regard to assessment of her work and conduct in the annual confidential reports. In two ACRs for the years 2007-08 and 2008-09, she was assessed as average, therefore she was not found eligible for grant of 2nd ACP after completion of 09 years of service. The respondent filed a representation against the said reports. The same was rejected and her challenge to the said rejection did not find favour with the authorities. It is vehemently argued that as the respondent did not fulfill the criteria to enable herself to get benefit of ACP after 09 years of service, the judgment passed by the learned Single Judge may be set aside.

We have heard counsel for the appellants and perused the records.

The respondent was admittedly granted benefit of first ACP when she completed 04 years of service in the cadre of Senior Assistant on 3.2.2004. She completed 09 years of service in the cadre of Senior Assistant on the same post without getting any promotion and became eligible to be considered for grant of benefit of second ACP on completion of 09 years of service. The case of the appellant for grant of benefit of second ACP was considered and rejected which became subject matter of challenge in the writ petition decided by the learned Single Judge.

The sole submission made by counsel for the appellants is that

as work and conduct of the respondent was assessed as average in the annual confidential reports for the years 2007-08 and 2008-09, the respondent was rightly held ineligible to be allowed the benefit of ACP on completion of 09 years of service. Counsel for the appellants has not denied that before taking decision in the matter with regard to grant of the ACP, the annual confidential reports for the years 2007-08 and 2008-09 wherein her performance has been assessed as average were never communicated to the respondent providing her an opportunity to seek its up-gradation. The learned Single Judge has rightly held that as these ACRs recording performance of the respondent as average were not conveyed to her, the same cannot be used to her detriment for denying her the benefit of ACP on completion of 09 years of service in the same cadre on the same post. Any representation made by the respondent against those ACRS on a subsequent occasion or its rejection would be irrelevant for the purpose of consideration of her case for grant of benefit of ACP on completion of 09 years of service.

Finding no error much less illegality, the appeal is dismissed in limine.

(Rajive Bhalla)
Judge

(Rekha Mittal)
Judge

December 09, 2015

PARAMJIT