

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

CWP No.1389 of 2003

Date of decision: 11.05.2016

Lakhwant Singh

...Petitioner

versus

The State of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Naveen Daryal, Advocate,
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

RITU BAHRI, J.

The petitioner is seeking quashing of the order dated 24.10.2002 (Annexure P-4), whereby his claim for grant of higher standard pay scale as per ACP Rules, has been rejected.

On 10.11.1978, Lakhwant Singh-petitioner joined the respondent-department as conductor on regular basis through employment exchange. His services were dispensed with on 06.04.1979. He filed a demand notice in the Labour Court, whereupon the respondents had taken him back in service on 04.12.1979. He was again terminated on 21.11.1980. He filed second demand notice before the Labour Court under Section 2-A of the Industrial Disputes Act. Consequent upon the compromise effected between the parties before the Lok Adalat on 02.06.2000, he was reinstated vide order dated 19.06.2000 passed by the General Manager, Haryana Roadways, Kaithal. However, he was not given the back wages, including annual increment for the period he remained out of service.

After reinstatement, the petitioner made repeated requests to the

respondents to grant him the benefit of 1st and 2nd ACP under the Haryana Civil Services (Assured Career Progression) Rules, 1998. Thereafter, the petitioner filed CWP No.12571 of 2002 before this Court claiming benefit of ACP Grade, which was disposed of by giving a direction to the respondents to treat the legal notice of the petitioner as a representation and decide the same within a period of three months. Pursuant to the directions given by this Court, the claim of the petitioner for grant of ACP was considered and rejected vide order dated 24.10.2002 (Annexure P-4). Hence, the present petition.

Upon notice, written statement on behalf of the respondents has been filed, wherein it has been stated that pursuant to the compromise effected before the Lok Adalat on 02.06.2000, the petitioner had been reinstated with continuity in service from 05.06.1982, but without back wages. The petitioner is working on temporary basis and his services have never been regularized by the department. Benefit of ACP is applicable to the employee, who has completed 10/20 years of regular satisfactory service. After his reinstatement, the petitioner had joined duty on 03.06.2000 and thereafter, he was involved in 15 different cases of embezzlements. As per his ACR for the year 2001-02 (Annexure R-9), he has not been found to be honest. In the year 2002, the petitioner was involved in seven cases of fraud. In the embezzlement cases, his services were terminated three times. Recovery of Rs.11,390/- has been imposed upon the petitioner.

Mr. Naveen Daryal, learned counsel for the petitioner, states that after his superannuation on 31.12.2011, pension has been granted to the petitioner by taking into consideration his service record. Moreover, the respondents have admitted this fact that consequent upon a compromise

effected before the Lok Adalat, the petitioner had been reinstated with continuity of service.

Learned counsel for the respondents has not been able to dispute the fact that as per compromise effected before the Lok Adalat on 03.06.2000 (Annexure R-8), the department had agreed to give continuity of service to the petitioner. Pursuant to the said compromise, the petitioner was reinstated by the department vide order dated 19.06.2000 (Annexure P-2), in which it has been clearly mentioned that he has been reinstated w.e.f. 05.06.1982.

Once the respondents have reinstated the petitioner with continuity of service, they have to make payment of retiral benefits w.e.f. 05.06.1982. As regards details of punishments awarded to the petitioner and recovery is concerned, that will not have any bearing on the retiral benefits, as his previous service, after he joined on 03.06.2000, has been taken into consideration for payment of pension.

Another point for consideration is that while passing the impugned order dated 24.10.2002 (Annexure P-4), the only ground for declining the benefit of ACP is that the petitioner has to be a regular employee. A perusal of this order shows that the benefit of ACP has been declined on account of his involvement in 18 different cases embezzlements after he was taken back in service on 03.06.2000. Recovery of Rs.11,390/- has been effected from him and warnings have been issued. One of the condition for grant of ACP is that he should be fit for promotion for the next higher post. But, on account of the fact that the petitioner was involved in 18 different cases of embezzlements and recovery of Rs.11,390/- has been effected, the benefit of ACP has been rightly declined to him. In this view of the matter, the impugned order (Annexure P-4) does not require any

interference.

However, the writ petition is partly allowed on the limited point and the respondents are directed to count the services of the petitioner w.e.f. 05.06.1982 till his retirement i.e. 31.12.2011 and re-fix his pension accordingly, within a period of three months.

11.05.2016
ajp

(RITU BAHRI)
JUDGE