

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 10051 of 2013

Date of decision : April 27, 2016

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Prithvi Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. P.K Ganga, Advocate for the petitioner.

Mr. Keshav Gupta, AAG, Haryana.

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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?*

RITU BAHRI, J

The petitioner is seeking directions to the respondents to grant him 2nd ACP which is due since 2006. The petitioner was appointed as Revenue Patwari w.e.f 17.2.1986. On completion of 10 years regular satisfactory service, the petitioner was granted 1st ACP in the year 1998. Second ACP became due in the year 2006 which was not granted to him. In this regard, the petitioner made a representation dated 31.8.2012 (Annexure P-3) to the respondents.

The stand taken by the respondents in the written

statement is that after being appointed as a Revenue Patwari on 17.02.1986 in the office of respondent no.3, consequent upon the provisions of Rule 7 of the Haryana Civil Services (ACP) Rules, benefits of 1st ACP was inadvertently granted to the petitioner in the year 1998 after completion of 10 years of service. The petitioner had not passed the departmental test and was not entitled for the same. The Haryana Government had allowed higher standard pay scales vide letter dated 8.2.1994 to the employees of group 'C' and 'D' categories after 10 and 20 years of satisfactory service. The petitioner was not eligible for grant of higher standard scale because he had not passed the departmental examination of Kanungo which is essential for his promotion to the next post. In this background, the petitioner was not entitled to the grant of first ACP in the year 1998 and is also not entitled for a second ACP.

In the replication, the petitioner has placed on record judgment passed by this Court in the case of Ram Pal Patwari and others vs. State of Haryana and another (CWP No.23074 of 2010) decided on July 24, 2015. A similar question had come up for consideration in that case. After completing 20 years of service, a claim was made to grant Second ACP. The stand of the State was that as per rule 5.3 (b) of Haryana Civil Services (Assured Career Progression) Rules, 1998 and 8 (b) of 2008 rules, the petitioners cannot be granted ACP scale until and unless they have not taken the test. A reference was made by the counsel for the petitioners to the order dated 29.8.2012, whereby similar persons working on

the post of Patwari had been granted the first, second and third ACP scale despite they had not cleared the Kanungo test. It was held by this Court that the State cannot discriminate amongst the same class of persons by taking aid of the rules *ibid*. There was no dispute to the fact that the petitioners were and are eligible for grant of Second and third ACP scales as they have rendered statutory period of service of 20/30 years. In view of the exemption granted as per instructions dated 17.2.2003 and rules and the fact that similar persons have been granted the similar relief of ACP scales, the petition was allowed and a direction was issued to the State that Second and third ACP Scales as has been granted to other similar situated persons be given to the petitioners within a period of three months.

Counsel for the State has not been able to dispute that the judgment in the case of ***Ram Pal Patwari's case (supra)*** has been implemented by the State of Haryana. The case of the present petitioner is squarely covered by the above said judgment.

In view of all that has been discussed above, present petition is allowed and a direction is given to the respondents to grant the benefit of Second ACP to the petitioner as per the Instructions dated 17.2.2003, within a period of three months from the date of receipt of certified copy of this order.

April 27, 2016
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(**RITU BAHRI**)
JUDGE