

CWP No.1094 of 2015

#1# Manoj Kumar
2016.10.17 17:23
I attest to the accuracy and
integrity of this document

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.1094 of 2015

Date of decision: 26.9.2016

Janak Raj Middha

....Petitioner

Vs.

State of Punjab and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: None for the petitioner.

Mr. Harkesh Manuja, Addl.A.G, Punjab.

Mr. Karanjit Singh, Advocate for respondent No.4.

Jaswant Singh, J

Petitioner, who retired as Superintendent from the office of Municipal Committee, Jalalabad (W), Fazilka, has sought a writ of mandamus directing the respondents to grant him the benefit of Assured Career Progression Scheme circulated vide letter dated 03.11.2006 (w.e.f 01.11.2006) (hereinafter to be referred as "ACP Scheme").

Initially, the petitioner joined his services as Clerk on 24.5.1972 in the office of the then Municipal Committee, Jalalabad (now Nagar Council-respondent No.4) and thereafter he was promoted as Superintendent on 29.11.2000 and ultimately retired as such on superannuation w.e.f 31.5.2007.

A perusal of paper book reveals that the petitioner is claiming the benefit of ACP on the ground that he has completed four years of service as Superintendent on 29.11.2004 and thus the respondents are under an obligation to grant him the said benefit.

On the other hand, counsel for respondents-State has vehemently opposed the prayer of the petitioner on the premise that the petitioner is not entitled for the benefit of ACP Scheme as he is lacking the requirement of a pre-condition of four years' service as stipulated under the ACP Scheme.

Admittedly, the petitioner was promoted as Superintendent on 29.11.2000 but as submitted in para 3 of the writ petition itself, the petitioner was inflicted a punishment of stoppage of two increments without future effect by the Director, Local Bodies, Punjab-respondent No.2 vide order dated 18.5.2006 and that order has not been set aside till date rather the same has become final.

A perusal of reply filed on behalf of respondent Nos.1 & 2 reveals that the ACP Scheme was made effective w.e.f 1.11.2006 and for grant of the benefit under said Scheme, the procedure for assessing the work and conduct of an employee would be similar as in case of a promotion. Since the petitioner has been inflicted the punishment under Rule 8 of the Punjab Civil Service (Punishment and Appeal) Rule 1970 before 01.11.2006 i.e effective date of ACP Scheme and thus was not having a satisfactory service record.

Neither any one has put in appearance on behalf of the petitioner to assist this court nor even the copy of the ACP Scheme has been placed on record, which is the very foundation for claiming the relief in the present writ petition.

This Court finds no reason except to agree with the stand of the respondent Nos.1 & 2 that grant of ACP is akin to the

promotion and for that regular satisfactory service is *sine qua non* which is missing in the present case as admittedly he has been awarded a punishment of stoppage of two increments vide order dated 18.5.2006 and the petitioner has not even placed on record the copy of said order of punishment. Even otherwise, the petitioner retired from service on 31.5.2007 and the present writ petition has been filed on 20.1.2015 i.e after a period of more than seven years of unexplained delay which is nothing but misuse of the process of the Court.

In view of the above, this court finds no merit in the present petition.

Dismissed.

September 26, 2016
manoj

(JASWANT SINGH)
JUDGE