

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

CWP No.23689 of 2014

Date of decision: 18.05.2016

Smt. Santra

...Petitioner

versus

Uttar Haryana Bijli Vitran Nigam Limited and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. V.D. Sharma, Advocate,
for the petitioner.

Mr. Pradeep Singh Poonia, Advocate,
for the respondents.

RITU BAHRI, J.

The petitioners is seeking direction to the respondents to pay him the benefit of 2nd ACP Scale as admissible under the modified notification dated 20.02.2004 (Annexure P-1).

Jai Chand Saini, husband of the petitioner, was initially recruited as LDC (Cashier) in the Haryana State Electricity Board on 30.05.1972. Later on, he was allocated to Uttar Haryana Bijli Vitran Nigam Limited (UHBVN). Unfortunately, he died on 21.04.2003. The Haryana Government, in order to avoid stagnation of the Government employees of 'C' and 'D' category, notified Punjab Civil Services (Accelerated Career Progression) Rules, 1998 for grant of new pay scales for 10/20 years of regular satisfactory service w.e.f. 01.01.1996. These rules were notified by erstwhile HSEB on 27.02.1998. The ACP rules were further modified vide order dated 20.02.2004 by the Managing Director, Uttar Haryana Bijli vitran Nigam with retrospective effect i.e. 01.01.1996. The petitioner is seeking

benefit of the said notification.

Upon notice, written statement on behalf of the respondents has been filed, wherein it has been clarified that husband of the petitioner had foregone his promotion from LDC (C) to the post of UDC on 14.08.2001. Thereafter, as per his service book (Annexure R-1), the benefit of 2nd ACP granted was sought to be withdrawn on 14.05.2003. Once, the benefit of 2nd ACP had been withdrawn, the petitioner cannot seek any benefit of the modified notification dated 20.02.2004 (Annexure P-1).

Heard, counsel for the parties.

A perusal of Annexure R-1 shows that the respondents had granted the benefit of 2nd ACP scale to Jai Chand Saini (husband of the petitioner) on 04.04.2002 and thereafter, the same was withdrawn vide memo dated 14.05.2003. He was appointed as LDC (Cashier) on 30.05.1972 and thereafter, for about 20 years till the ACP Rules came into existence w.e.f. 01.01.1996, he had not been promoted as UDC. Hence, the benefit of ACP had been rightly granted to him vide order dated 04.04.2002. Husband of the petitioner had foregone his promotion on 14.08.2001 and this would not disentitle him for grant of 2nd ACP, which was due on 01.01.1996. This aspect has been considered by this Court in **Vijay Singh Vs. State of Haryana and others**, 2011 (2) SCT 301, wherein it has been held that ACP scale, once granted cannot be withdrawn on the ground that the employee has foregone his promotion.

After getting the 2nd ACP, husband of the petitioner, at best, could not get the third ACP after he had forgone his promotion on 14.08.2001. Hence, the action of the respondents withdrawing the 2nd ACP, is liable to be set aside. In this background, the modified ACP scale as per

notification dated 20.02.2004 (Annexure P-1) are also admissible to the petitioner.

Resultantly, this petition is allowed and the respondents are directed to restore the benefit of 2nd ACP as per modified ACP scale (Annexure P-1) and thereafter, re-fix and release the family pension in favour of the petitioner, within three months.

18.05.2016
ajp

(RITU BAHRI)
JUDGE