

After ten years of the petitioner's promotion as an Assistant, in November 1985, the benefit of first ACP scale was released in her favour. In the year 2012, the petitioner made a representation for release of the benefit of second ACP scale, which, according to her, had accrued in her favour w.e.f. 25.11.2005 i.e. 20 years after her promotion as Assistant on 22.11.1985. On the rejection of her representation, she has approached this Court praying for quashing of the order through which her representation was rejected, as also for the issuance of a direction to the respondents to release the second ACP scale in favour of the petitioner w.e.f. 25.11.2005, with all consequential benefits.

After hearing counsel for the petitioner, I am of the opinion that the present petition must fail.

On 16.09.2005, after having been found guilty for misplacing office files, punishment of stoppage of one increment for five years with cumulative effect was imposed on the petitioner. This order has not been assailed by the petitioner. The afore-referred punishment was to have its effect till 16.09.2010, but before that, on 16.02.2010, the petitioner sought and got voluntary retirement. On account of the punishment inflicted upon the petitioner, no benefit of the ACP scale could be given to the petitioner as this benefit is to be given only on the basis of regular satisfactory service. In this regard, Rule 7 of the Haryana Civil Services ACP Rules, 2008 is reproduced as under :-

***“7. Eligibility for Grant of ACP grade Pay
under the general ACP scheme :—***

(1) Every Government servant covered under

the general ACP scheme shall, for the purposes of drawal of pay, be eligible for the first ACP grade pay (given in column 4 of Part II of Schedule I in respect of the functional pay scale or pay structure of his post) if he has completed 10 years of regular satisfactory service and has not got any financial upgradation in these ten years with reference to the functional pay structure of the post to which he was recruited as a direct entrant. Financial upgradation in HARYANA GOVT. GAZ. (EXTRA.), DEC. 30, 2008 (PAUS. 9, 1930 SAKA) 1455 this context includes functional promotion in the hierarchy or further revision/modification of the pay structure for the same post after 1.1.2006.

- (2)** *Every Government servant covered under the general ACP scheme shall, for the purposes of drawal of pay, be eligible for the second ACP grade pay (given in column 5 of Part II of Schedule I in respect of the functional pay scale or pay structure of his post) if he has completed 20 years of regular satisfactory service and has not got any financial upgradation in the last ten years. Financial upgradation in this context includes functional promotion in the hierarchy or further revision/modification of the pay structure for the same post after 1.1.2006.*

- (3)** *Every Government servant covered under*

the general ACP scheme shall, for the purposes of drawal of pay, be eligible for the third ACP grade pay (given in column 6 of Part II of Schedule I in respect of the functional pay scale or pay structure of his post) if he has completed 30 years of regular satisfactory service and has not got any financial upgradation in the last ten years and has not got more than two financial upgradation so far. Financial upgradation in this context includes functional promotion in the hierarchy or further revision/ modification of the pay structure for the same post after 1.1.2006.

- (4) In case of a Government servant who gets promoted, he will be considered for the next ACP grade pay after he completes 10 years of regular satisfactory service in the promotional post without any financial upgradation and will be entitled to the next ACP grade pay with reference to the grade pay of the promotional post he holds : Provided that a Government servant shall not be entitled to avail ACP upgradation if, he has already availed of three financial upgradation of any kind in his career.”*

A perusal of the afore-quoted Rule makes it abundantly clear that the benefit of the ACP is to be given only on the basis of the regular satisfactory service, which, for the period in question, the petitioner did not have. In fact, the date, when the petitioner says that she should have been granted the benefit of the ACP, fell within the currency of a major penalty

awarded to the petitioner, for the acts of proven gross indiscipline on her part.

Even otherwise, the benefit of ACP is granted in lieu of promotion, and therefore, if, within the period of currency of punishment, the petitioner was not eligible to earn any promotion, while applying the same principle, she would also be not entitled to the grant of ACP scale.

In view of the above, finding no merit in the present writ petition, the same is hereby ordered to be dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

May 05, 2016
monika