

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

**Civil Writ Petition No.4514 of 2004 (O&M)
Decided on : 27.09.2017**

Mohan Lal Dhingra

... Petitioner

Versus

Haryana Power General Corporation Ltd. and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : None for the applicant-petitioner.

Mr. Padamkant Dwivedi, Advocate for
Mr. Mukul Aggarwal, Advocate for the respondents.

G.S. Sandhawalia, J. (Oral)

CM-3861-CWP-2015

Application for placing on record photostat copies of Medical Certificate and Information received under RTI Act dated 14.05.2009 as Annexures A-1 and A-2 is allowed, subject to all just exceptions. Annexures A-1 and A-2 are taken on record. Office to tag the same at the appropriate place.

CM stands disposed of.

Main case

The main case stands admitted. The same is taken up on Board for hearing today itself.

The petitioner seeks quashing of the order dated 02.01.2004 (Annexure P-11), vide which respondent No.2 rejected the request for the grant of 2nd ACP as he had foregone his promotion. Resultantly, his legal notice dated 26.06.2002 (Annexure P-10), whereby he seeks grant of 2nd ACP Scale has been rejected.

The reasoning which has been recorded in the said order is that the petitioner had foregone his promotion from Junior Scale Stenographer to Senior Scale Stenographer vide request dated 24.11.1999 in spite of the promotion order having been passed on 04.06.1999 and whereby he had been transferred. He, thereafter, had been promoted again on 31.08.2000 to the post of Senior Scale Stenographer. It was, accordingly, noticed that as per para No.11 of the Office order dated 27.02.1998, there was to be ceasing of entitlement of the ACP Scales and the employee was to draw his pay on functional pay scales. The issue of discrimination qua others was accordingly distinguished on the ground that there was no parity with Shri S.K. Arora, who had never foregone his promotion and Mrs. Krishna Kanta Verma had been given 2nd ACP after completion of 20 years of service.

In the written statement also it has been clarified that in view of the office order dated 27.02.1998, the benefit of upgradation is not be granted and it is not admissible by placing reliance upon the instructions.

This Court in **CWP No.9389 of 2013 'Surinder Kumari and others Vs. State of Haryana and another'**, decided on 05.09.2017 had occasioned to deal with Rule 11 and Rule 14 of Haryana Civil Services (Assured Career Progression) Rules, 1998 and Haryana Civil Services (Assured Career Progression) Rules, 2008. While noticing the judgment of the Division Bench in **Rakesh Kumar vs. State of Haryana and others, 2010 (1) SCT 443**, it was noticed that the validity of the rule has been upheld and resultantly the said Division Bench judgment was

followed, after noticing that on an earlier occasion also, the Division Bench in **Shakuntla Devi vs. State of Haryana, 2003 (2) SCT 697** and **Swaran Lata vs. State of Haryana, 1997 (1) SCT 516** had decided the issue in favour of the State that if an employee foregoes promotion at his own request, it would render himself ineligible for the benefit of higher pay scale.

Resultantly, for the reasons given in the said judgment, the benefit cannot be granted to the petitioner and no fault can be found in the impugned order. Accordingly, there is no merit in the present writ petition and the same is dismissed.

SEPTEMBER 27, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No