

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

CWP No.18314 of 2010 (O&M)
Date of decision : March 06, 2017

Jagdish Chander,

..... Petitioner

v.

The State of Haryana and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Ramesh Sharma, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG Haryana

Ajay Tewari, J (Oral)

The petitioner was appointed as a Conductor on adhoc basis on 12.10.1981. His services were initially regularized w.e.f 1.11.1986 by an order dated 14.1.1998. Thereafter, by an order dated 7.3.2000, he was given further benefit and his services were regularized w.e.f 8.6.1982. However, despite this order he was not granted second ACP w.e.f 2002. As per the petitioner, the original regularization of his services w.e.f 1986 was incorrect because his services had to be regularized with effect from the date he completed 240 days i.e 8.6.1982 and that is why order dated 7.3.2000 was passed. He relies upon instructions dated 19.2.1979.

In reply, the stand of the State is that the said instructions were limited only to those employees who had completed the cut off period of 240 days on the date of those instructions and since the petitioner had been

appointed only in the year 1981, he was not entitled to any benefit under those instructions and the order dated 7.3.2000 was in fact wrongly passed.

On the last date, counsel for the petitioner had asserted that one Rishal Singh who was appointed in the same Depot as the petitioner and did not complete 240 days' service on 19.2.1979 (since he in fact was appointed only on 12.9.1978) had filed CWP No.18237 of 2010 and in that case, the respondents had granted him the necessary relief and that is why that writ petition was withdrawn as having been rendered infructuous. As per the learned counsel, once the respondents gave same relief to the similarly situated employee even though originally they had resisted the same and that writ petition was rendered infructuous, they can not now turn around and deny the relief to the petitioner, more-so when the order dated 7.3.2000 was never withdrawn by them.

Learned AAG Haryana is not in a position to justify the action of the respondents. It may be noticed that originally the case of Rishal Singh was sought to be resisted on the same ground viz. he was not covered by the instructions dated 19.2.1979 but later-on the respondents unilaterally granted him the benefit thereby rendering his writ petition as infructuous. In my opinion, the respondents are estopped from taking that very plea now to resist the claim of the present petitioner. Had it been a case where Rishal Singh was granted any benefit under Court orders, it may have been different but after this unilateral action the respondents are now precluded from raising that plea. Resultantly, this writ petition is allowed and the respondents are directed to give full effect to the order dated 7.3.2000 in all respects. In the circumstances of the case, the relief which the petitioner is entitled to, is that he would get the second ACP w.e.f 2002 instead of 2006

and would consequently get the benefit of increase in pension also apart from arrears of pay. The respondents are further directed to work out the benefits of arrears of pay, pension and increase in pension and pay the same to the petitioner within three months from the date of receipt of a certified copy of this order, failing which he would be entitled to get the same with interest @ 9% pa from the date/s the amount/s fell due.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

March 06, 2017

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**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No