

CWP-20599-2010 (O&M)

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

**CWP-20599-2010 (O&M)
Date of Decision : 17.04.2017**

Sahi Ram Petitioner
Versus

State of Haryana and another Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr.Vinod Gupta, Advocate for
for the petitioner.

Mr. Ravi Partap Singh, AAG, Haryana.

AJAY TEWARI, J. (Oral)

By this petition the petitioner prays for quashing the impugned order dated 12.4.2010 (Annexure P-6) passed by respondent No.2 and further claims that he should be given one more upgradation under the Haryana Civil Services (Assured Career Progression) Rules, 2008.

Brief facts of the present case are that the petitioner was appointed as Clerk on 1.10.1974 on ad hoc basis and made regular as Clerk/Steno-Typist on 03.03.1980. From the post of Steno-Typist he became an Assistant on 12.7.1985 and promoted as Auditor on 15.2.1987. Thereafter he was promoted as Head Clerk on 10.12.1999. The claim of the petitioner for 3rd ACP has been resisted on the ground that as per proviso of Rule 7 of Haryana Civil Services (Assured Career Progression) Rules, 2008 a Government servant shall not be entitled to avail ACP upgradation if he has already availed of three financial upgradations of any kind in his career. Rule 7 of the Haryana Civil Services (Assured Career Progression) Rules, 2008 is as follows:

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

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(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 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.

Explanation.— *The ACP pay structure upgradation in the form of first ACP grade pay will come into play only if a Government servant has not got the benefit of at least one grade pay upgradation within the prescribed period of first 10 years. Similarly, the second and third ACP grade pays will come into play only if a Govt. servant does not get two upgradations after twenty years of service and three upgradations after thirty years of service. If within 10 years of service, the Government servant has already got at least one financial upgradation or within 20 years of service, the Government servant has already got atleast two financial upgradations, or within 30 years of service, the Government servant has already got at least three financial upgradations, benefit of these rules will not be extended to such employees save if otherwise provided in these rules."*

Learned counsel for the petitioner relies upon the Explanation of the said proviso and has argued that he has not got any grade pay upgradation.

In a case where a person was promoted from the post of Clerk to the Post of Head Clerk having become Steno Typist, Assistant and Auditor on the way, it is hard to say that his career has been so stagnant that he has not got three upgradations.

Consequently, the petition stands dismissed.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

April 17, 2017
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No