

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

204

CWP No.17186 of 2012 (O&M)

Date of Decision: August 08, 2017

Shakuntla Rani

....Petitioner

vs.

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Madhav Pokhrel, Advocate for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

TEJINDER SINGH DHINDSA, J. (Oral)

Pleadings on record would indicate that the petitioner who was serving on the post of Mathematics Mistress under the Department of School Education, State of Punjab, retired on 30.04.2012, upon attaining the age of superannuation. Prior to retirement she had been granted the benefit of proficiency step up on completion of 8/18 and 24 years of regular satisfactory service. Petitioner had completed 32 years of service prior to retirement.

The instant writ petition was instituted in the year 2012 raising a grievance that the proficiency step up under the Assured Career Progression Scheme that was due on completion of 32 years of regular service, has been arbitrarily denied.

Upon notice of motion having been issued, a response by way of counter affidavit of the Director of Public Instructions

(Secondary Education), Punjab, has been placed on record. Appended along with reply is memo dated 03.02.2010 (Annexure R-1/T) issued by the District Education Officer (Secondary Education) Kapurthala and a perusal thereof would reveal that the case of the petitioner for grant of proficiency step up on completion of 32 years of service i.e. in the year 2009 had been considered against the backdrop of the policy governing grant of ACP benefit contained in memo dated 03.11.2006 and has been declined on the following basis:-

“Original A.C.P. case along with service book of Smt. Shakuntla Rani, Math Mistress Govt. High School, Razapur (Kapurthala), is returned herewith with the marks that instructions of A.C.P. vide Punjab Govt. memo No.7/60/2006-5PP(1)15963 dated:03.11.2006 para No.4(b) read as under:-

“The procedure for assessing the work and conduct for placement in the higher scale shall be the same as applicable to the case of promotion. The placement in higher scale shall be allowed only to the employee whose overall service record during the span of satisfactory service is adjudged as “Good” and the employee is otherwise suitable for promotion. “Good” record shall mean that more than 50% Annual Confidential Reports are good and out of last three years at least two should be “Good” for all the remaining years the bench mark may be “Average”.

In the Annual Confidential Report of the employee for the year from 2004-2005 to 2008-2009 sent by you, the following remarks have been

recorded:-

Sr. No.	Year	Remarks	RKs.
1	2004-2005	Average	-
2	2005-2006	Average	-
3	2006-2007	Average	-
4	2007-2008	Good	-
5	2008-2009	Average	-

As per above Annual Confidential Reports are 50% not “Good” as per State Govt. instructions. Thus, the case of A.C.P. of the employee does not cover under the instructions. In case employee is desirous to say anything in this regard, she may send her representation to this office.”

Learned counsel representing the petitioner would submit that even though memo dated 03.02.2010 (Annexure R-1/T) had not been communicated to the petitioner, yet, he cannot possibly lay a challenge to the same as in the ACRs for the years 2004-2005 till 2008-2009, the petitioner has not made good the requisite bench mark and as envisaged under Para No.4(b) of the ACR Circular dated 03.11.2006. Counsel submits that as per circular the placement in the higher scale was to be allowed only to such employees whose over all service record during the span of satisfactory service is adjudged as “**Good**” and the employee is otherwise suitable for promotion. Under the policy/circular dated 03.11.2006, governing the grant of ACP, “**Good**” record would be construed where more than 50% ACRs are good and out of the last three years, at least two should be “**Good**” and for all the remaining years, the bench mark may be average.

It is the assertion made on behalf of the petitioner that for the subsequent years i.e. 2009-2010 and 2010-2011, petitioner has earned “**Good**” and “**Excellent**” ACRs. Counsel submits that even though the ACP benefit on completion of 32 years had been rightfully declined by the respondent-authorities vide memo dated 03.02.2010 (Annexure R-1/T) yet the petitioner had made good the bench mark at a subsequent point of time i.e. in the year 2011 and while she was in service.

In the light of the submissions advanced by counsel and while declining to interfere in the memo dated 03.02.2010, appended along with the written statement, liberty is granted to the petitioner to raise her claim for grant of ACP benefit (proficiency step up) that is upon completion of 32 years of regular satisfactory service but from the year 2011 instead of 2009.

In the event of any such claim being raised, the respondent-authorities/competent authority would be obligated to consider the same and to take a final decision thereupon in the light of the relevant policy/circular formulated by the State Government governing the ACP scheme as also in accordance with law.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

08.08.2017
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Whether speaking/reasoned : ***Yes/No***
Whether reportable : ***Yes/No***