

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 16914 of 2014 (O/M)
Date of decision : 5.4.2017

Pritpal Kaur

..... Petitioner (s)

Versus

State of Punjab and others

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R.K. Arora, Advocate, for the petitioner.

Mr. Anshul Gupta, Assistant Advocate General, Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The petitioner initially joined respondent-department as a Junior Lecturer on 13.11.1986 and was promoted as a Senior Lecturer on 5.2.1996. Thereafter, she was promoted to the post of Head of Department (Applied Sciences) on 30.8.2000, where she joined on 18.9.2000. The petitioner retired from service on 30.4.2012 on attaining the age of superannuation. The claim of the petitioner is that vide notification dated 17.4.2000 (Annexure-P-2), the benefit of Dynamic Assured Career Progression Scheme (in short 'Dynamic ACP Scheme') was introduced and extended to 11 categories of officers mentioned in the said scheme. The post of Lecturer working in the Department of Technical Education and Industrial Training was not added therein. However, it was added as 12th category subsequently with effect from 28.5.2009, vide instructions endorsed on 22.12.2011 (Annexure-P-7), whereby the benefit of the said

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Dynamic ACP Scheme was extended to Lecturers of Technical Education and Industrial Training also. The petitioner claims that similarly situated employees, namely, Harjinder Singh, Head of Department, Sukhwinder Partap Rana, Head of Department, Bahadur Singh, Head of Department (Pharmacy) and Minakshi Singla, Senior Lecturer were allowed the said Dynamic ACP Scheme on completion of 14 years of service, whereas the same has been declined to the petitioner.

In the reply, respondents have taken the stand that the said employees were directly appointed as Lecturers and the benefit of the Dynamic ACP Scheme was granted to them. Minakshi Singla was appointed as a Lecturer in Chemistry in compliance of the order passed by this Court on 1.12.1992 in LPA No. 1004 of 1990 and LPA No. 740 of 1990. The petitioner was not directly appointed in the pay scale of Rs. 2200-4000. Her post of Junior Lecturer was converted to the post of Lecturer, vide letter No. 5/11/86-3 TE2/Spl./344 dated 27.7.1987. As such, she was not granted the benefit of Dynamic ACP Scheme. It was further stated that the Department of Personnel, vide memo dated 28.10.2013 (Annexure-P-18), clarified that the Head of Department is not covered in the letter No. 7/60/2006-5P.P.1/881 dated 22.12.2011.

In the replication, the petitioner has given the list of 25 more persons, who according to her, were Heads of Department and were granted the Dynamic ACP Scheme.

The original Dynamic ACP Scheme is Annexure-P-2, vide which, while implementing the recommendations of 4th Punjab Pay Commission, the Assured Career Progression Scheme was extended where there is a direct recruitment in the pay scale of Rs. 2200-4000 as on

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31.12.1995. The said benefit was extended to 11 categories. It is not disputed that vide letter dated 22.12.2011 (Annexure-P-7), the Lecturers of Technical Education were added as 12th category in the Annexure-A. The petitioner had made a representation dated 13.4.2013 (Annexure-P-10) for granting her the benefit of Dynamic ACP Scheme, which has been declined by respondents, vide impugned dated 7.11.2013 (Annexure-P-17), stating that her case is not covered as per the instructions dated 22.12.2011. The instructions dated 5.6.2007 (Annexure-P-22) shows that in consultation with the Department of Finance, Punjab, it has been clarified that the persons appointed by promotion to the post of categories mentioned in Annexure-A are also eligible for benefit under these instructions. It goes to show that the benefit of Dynamic ACP Scheme (Annexure-P-2) was also extended to the person appointed by way of promotion.

Now, the further question would arise as to whether the Head of Department is covered under the definition of Lecturer ? The Stand of respondents themselves shows that the persons, who were directly appointed and were workings as the Heads of Department, were granted the benefit of Dynamic ACP Scheme, treating them as Lecturers. If the benefit of Dynamic ACP Scheme has been granted to the persons, who were directly appointed as Lecturers and were working as Heads of Department, the same benefit cannot be denied to the promotees. Otherwise also, there is no reason for categorizing that the benefit of Dynamic ACP Scheme will be available to the direct appointees and not to the promotees. Therefore, it is clear that the petitioner, who was a promotee Lecturer, is also entitled to the grant of benefit of Dynamic ACP Scheme. Hence, the impugned order

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dated 7.11.2013 (Annexure-P-17) is hereby quashed. Respondents are directed to grant the benefit of Dynamic ACP Scheme to the petitioner on completion of 14 years of service and thereafter release the consequential benefits in the form of pay revision, pension and other consequential benefits also. The needful be done within three months from the date of receipt of certified copy of this order.

In view of the matter, the present writ petition is allowed.

(KULDIP SINGH)
JUDGE

5.4.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes