

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

Civil Writ Petition No.20423 of 2013

Date of Decision:-03.03.2017

Om Parkash

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present:- Mr.Naveen Daryal, Advocate for the petitioner.

Mr.Harish Rathee, Sr. DAG, Haryana.

P.B. BAJANTHRI J.(Oral)

The petitioner has questioned the validity of the order dated 16.07.2013 (Annexure P-9), by which the grievance relating to the petitioner for refixation of pay with reference 1st ACP and 2nd ACP, has been rejected.

The petitioner was appointed as a *T-Mate* on 22.09.1977 in the Haryana State Minor Irrigation Tubewell Corporation. He was further promoted on the post of Water Pump Operator on 03.07.1989. With reference to 1998 ACP Rules, the petitioner's pay was refixed vide Annexure P-8, in which the petitioner's 1st ACP was fixed on 01.05.1999 and 2nd ACP on 01.07.2009. This was subsequently withdrawn stating that the petitioner was promoted to the post of Tubewell Operator consequently 1st ACP under ACP Rules, 2008, has already been granted to the petitioner w.e.f. 01.01.2006 after completion of 10 years service on the promotional post and thereafter 2nd ACP w.e.f. 01.07.2009 after completing of 20 years of service.

Learned counsel for the petitioner submitted that under 1998 ACP Rules, the petitioner was entitled for Ist ACP, so also 2nd ACP having regard to the date of promotion to the post of Tubewell Operator on 03.07.1989, the petitioner had completed 10 years of service on 02.07.1999. Thus, the fixation of pay as well as 1st and 2nd ACP, vide fixation order dated 08.11.2012(Annexure P-3) is in order. Therefore, the impugned order dated 16.07.2013 (Annexure P-9) is wholly arbitrary and illegal, so as to contrary to the ACP Rules, 1998 read with ACP Rules, 2008.

On the other hand, learned counsel for the State submitted that the petitioner's fixation of pay as well as grant of 1st ACP on 01.01.1997 and 2nd ACP on 01.01.2007 was ordered under endorsement No.136/38 dated Nil 3/2011. The said endorsement is pasted on the service register of the petitioner. Thus, on instructions of the department, learned State counsel submitted that the petitioner has been granted the benefit of 1st ACP on 01.01.1997 and 2nd ACP on 01.01.2007. Therefore, there is no infirmity whatsoever in so far as the grant of 1st and 2nd ACP to the petitioner and they have never postponed the date of 1st ACP and 2nd ACP contrary to the cited endorsement No.136/38 dated Nil 3/2011.

Learned counsel for the petitioner also submitted that if the respondents are sticking to grant of ACP to the petitioner endorsement No.136/38 dated Nil 3/2011, petitioner has no grievance. It was further submitted that respondents may be directed not to disturb the fixation with reference to endorsement No.136/38 dated Nil 3/2011.

In view of the above submissions, order dated order dated 16.07.2013 (Annexure P-9) is set aside and respondents are directed not to

disturb the fixation done vide endorsement No.136/38 dated Nil 3/2011,

Respondents are also directed to examine the consequential benefits if the petitioner is entitled. The same shall be granted within a period of three months after a receipt of a certified copy of this order.

In view of above, petition stands disposed of.

03.03.2017
Anjal

(P.B. BAJANTHRI)
JUDGE

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No