

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

CWP No. 18601 of 2014

Date of Decision: 12.01.2017

KEWAL KRISHAN KAUSHIK

... Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

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

Mr. Nikhil Chopra, D.A.G., Punjab

KULDIP SINGH, J. (Oral)

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India for issuance of writ of certiorari for quashing the impugned reply/order dated 30.07.2014 (Annexure P-4) passed by respondent No. 3. Further prayer is made for issuance of writ of mandamus directing the respondents to release the benefits of proficiency step up/ACP benefits and Annual Grade Increment and release the arrears alongwith interest.

Brief facts of this case are that petitioner joined the service of the respondent department on 05.10.1972 as a Draftsman. Later on, he was promoted as Head Draftsman, Circle Head Draftsman and ultimately promoted as Sub Divisional Engineer on adhoc basis vide order dated 17.08.2005 (Annexure P-1) for a period of six months or for the period till P.P.S.C./ Screening Committee regularize him, whichever is earlier. It was further ordered that the said promotion was made on ad hoc basis and the petitioner will get the benefit of seniority.

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It comes out that since PPSC delayed the approval of promotion, therefore, the ad hoc promotion was extended from time to time and petitioner retired from service on 31.03.2010 as such. The claim of the petitioner is for grant of ACP on completion of 4 years of service under the Punjab Civil Services Revised Pay Rules, 1998 notified on 19.05.1998

The reply of the respondent-State shows that the ad hoc promotion is not denied. It is stated that the said ad hoc promotion was made keeping in view the exigencies of the work. The plea is taken that since it was a ad hoc promotion, therefore, the ACP was not granted to the petitioner and the claim of the petitioner was rejected vide reply dated 30.07.2014 (Annexure P-4)

I have heard learned counsel for both the parties and carefully gone through the case file.

Admittedly, the petitioner was promoted on ad hoc basis as Sub Divisional Engineer on 17.08.2005. Due to the delay in receiving the approval from the P.P.S.C., the adhoc promotion was extended from time to time and the petitioner retired as such on 31.03.2010. Now, the question arising for consideration is as to whether the ad hoc promotion of the petitioner is required to be considered for the purpose of grant of ACP on completion of 4 years of service on the promoted post ?

Learned counsel for the petitioner has relied upon the Punjab Government letter No. 7/14/88-5PP1/8369 dated 11.05.1990. The relevant extract of the same is reproduced hereunder:-

Subject: Counting of ad hoc service i.e. after provisional promotion against a particular post for purpose of experience for grant of selection/senior scale/proficiency step-up.

It has been brought to the notice of Government that in the case of ad hoc promotions i.e. provisional promotions pending

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approval by the Punjab Public Service Commission to the promotion quota posts which are initially done for a period of 6 months but continue for long period over year. In some of the departments promotion of such employees have not been regularized for a period of 10 years with the result that such period of ad hoc/provisional promotion is not considered for extending the benefit of senior/selection grades where such grades are available after putting in specific length of service or proficiency step up increment, whereas, these benefits are admissible to regular promotes. The matter has also been taken up separately with the Punjab Public Service Commission who are willing to finalize such cases expeditiously.

After careful consideration it has been decided that the period of service against promotion on ad hoc basis i.e. after provisional promotion, should be taken into account for the purpose of benefit of senior/selection grade/proficiency step up increment provided the promotion so ordered is against promotion quota posts.”

The perusal of the said instructions make it clear that if the approval of the promotion is delayed by the P.P.S.C., the ad hoc service is to be counted for the benefit of seniority, selection grade and proficiency step up increment. Even otherwise, the promotion of the petitioner even on the adhoc basis, was made on the basis of seniority and it was not merely a stop-gap arrangement. In the circumstances, the ad hoc Service of the petitioner is to be taken into consideration for grant of ACP on completion of 4 years of service and Annual Grade Increment.

Consequently, the impugned order/reply dated 30.07.2014 (Annexure P-4) declining the ACP on completion of four years' service and Annual Grade Increment, is hereby quashed. The writ of mandamus is issued

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to the respondents to release the ACP on completion of four years’ service and Annual Grade Increment alongwith the interest, as per the instructions of the Government, within three months from the date of receipt of certified copy of this order.

In view of the above, the writ petition stands allowed.

January 12, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

<i>Whether speaking / reasoned</i>	:	✓ Yes	/	No
<i>Whether Reportable</i>	:	Yes	/	✓ No