

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21527 of 2014

Date of Decision:-28.02.2017.

Jai Singh Kadian and others

.....Petitioners

Versus

State of Haryana and another

.....Respondents

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

Present: Mr. D.S. Rawat, Advocate for the petitioners.

Mr. Harish Rathee, Sr. DAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, petitioners have questioned the validity of the order dated 13.5.2014 (Annexure P-10) by which they have been granted 1st ACP and 2nd ACP.

2.) One Sh. Dilbag Singh was promoted to the post of Assistant with reference to reservation policy. The petitioner's claim for retrospective promotion from the date when Dilbag Singh was promoted was the subject matter before this Court and subsequently, the Department have implemented the decision of the Supreme Court passed in **Ajit Singh Janjua and others Vs. State of Punjab and others 1997 (7) S.C. 152** and promoted the petitioners and others to the post of Assistant from 19.8.1988, the date on which petitioners' junior Sh. Dilbag Singh was promoted to the post of Assistant vide Annexure P-1. The respondents introduced ACP

scale in the year 2008 which would be effective w.e.f.1.1.2006. ACP Rules, 2008 provides for benefit of 1st and 2nd ACP after completion of 10 years and 20 years of service. Sh. Dilbag Singh was granted benefit of 1st ACP and 2nd ACP w.e.f. 1.1.2006 on 20.8.2009 vide Annexure P-2 and 2nd ACP w.e.f. 1.9.2008 on 24.1.2012 vide Annexure P-3 with reference to completion of 10 years and 20 years of service respectively. The grievance of the petitioners is that they have not been extended the benefit of 1st ACP and 2nd ACP on par with Dilbag Singh. In Annexure P-10 while granting ACP to the petitioners, 1st ACP has been granted subsequent to 1.1.2006, 1.10.2006, 1.11.2006 etc. whereas the petitioners have completed 10 years as on 1.1.2006 with reference to ACP Rules, 2008. Similar benefit has been granted to Sh. Dilbag Singh in not extending the benefit of ACP w.e.f. 1.1.2006 with no reason and in not granting second ACP at all on par with Dilbag Singh is highly arbitrary. Hence, the order at Annexure P-10 dated 13.5.2014 is liable to be set aside.

3.) On the other hand, learned State counsel submitted that petitioners have been granted the benefit of 1st ACP on notional basis under the ACP Rules, 2008. It was further contended by learned counsel for the respondents in their statement of objections in para 1 they have stated that 1st ACP has been granted w.e.f. 1.1.2006, however, it is contrary to the ACP Rules, 2008. Therefore, the petitioners' claim has been set right in Annexure P-10. Hence, the petitioners have not made out a case.

4.) Heard learned counsel for the parties.

5.) Admittedly, the petitioners have completed 20 years of service as on 1.1.2006, the date on which ACP Rules, 2008 is being given effect.

and 2nd ACP w.e.f. 1.9.2008, the petitioners are admittedly seniors to Dilbag Singh. Therefore, petitioners are entitled for the benefit of 1st ACP and 2nd ACP w.e.f. 1.1.2006 and 1.9.2008. Moreover, perusal of Annexure P-10 it is evident that 1st ACP has been granted beyond 1.10.2006 to the petitioners and 2nd ACP has not been granted even though they have completed 20 years of service. Therefore, the order dated 13.5.2014 is set aside and the matter is remanded to the second respondent-Director General, Health Services, Haryana for fresh consideration. In the meanwhile, the petitioners are directed to submit their claim before the second respondent within a period of two weeks by giving details of their service particulars and so also the date on which they would be completing 10 years and 20 years of service, respectively. After receipt of the petitioners' claim, the second respondent-Director General, Health Services is directed to pass appropriate order within a period of three months thereafter.

6.) Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

February 28, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.