

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16385 of 2017 (O&M)

Date of Decision:-27.07.2017.

Harmeet Singh, Naib Nazir

.....Petitioner

Versus

Punjab and Haryana High Court, Chandigarh and another

.....Respondents

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

Present: Petitioner-Harmeet Singh in person.

P.B. BAJANTHRI, J. (Oral)

Service of notice to respondents is dispensed since matter is being remanded to the respondents for re-consideration. In the present petition, petitioner has sought for the following relief:-

“It is prayed that this Civil Writ Petition under article 226 and 227 of the Constitution of India, in the form of Certiorari or any other order/direction for quashing the order vide Letter No.2897/G dated June 13, 2017 issued by the second respondent (Annexure P-1) being violative of natural justice, law and equity and to issue a writ of Mandamus/ order/ direction to the Respondents to pay the ACP with effect from March 13, 2013 and Any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case may please be allowed. Any other relief which this court may deem fit.”

Grievance of the petitioner is relating to grant of proficiency

step up under ACP scheme which was due to him as and when he completed

4 years of service on 12.3.2013. The same has been considered and rejected on the ground that the petitioner was subjected to disciplinary proceedings and he has been punished by imposing the penalty of censure in the year 2010 and he has been penalized by imposing fine in the year 2012. Further his annual confidential report for the period from 02.08.2011 to 31.12.2011 is adverse and representation for expunging the remarks in the ACR has been declined vide order dated 9.11.2015. In this background, petitioner's claim for grant of stepping up of pay has been declined.

Petitioner submitted that censure penalty and imposing fine in the year 2010 and 2012 would not be a hurdle for grant of proficiency step up under the ACP Scheme since penalty is not for specific period. It was further submitted that ACR for the period from 02.08.2011 to 31.12.2011 has been communicated to the petitioner only on 09.11.2015 that is much after due proficiency step up as on 12.3.2013. Therefore, the same cannot be taken into consideration. It was also submitted that filing of charge-sheet on 14.6.2013 and facing contempt proceedings would not come in the way of extending the benefit of proficiency step up since these events are subsequent to 12.3.2013 the date on which ACP was due to him.

Heard the petitioner.

Perusal of Annexure P-1, it is evident that for the purpose of extending the benefit of proficiency step up, employee must have been adjudged as good and suitable for promotion. In this regard, imposition of punishment of censure and so also fine in the year 2010 and 2012 shows that petitioner's work and conduct has been assessed as not good. Therefore, petitioner's claim for stepping up of proficiency step up has been declined. For alleged conduct petitioner has been punished and penalty is

not in force as on 12.3.2013. Therefore, penalty would not come in the way of extending ACP as on 12.3.2013. Insofar as taking note of charge-sheet filed on 14.06.2013, pendency of contempt proceedings against the petitioner and annual confidential report for the period from 02.08.2011 to 31.12.2011 communicated on 9.11.2015 for denial of ACP as on 12.3.2013 may not be correct for the reasons that as on 12.3.2013, the date on which petitioner was entitled for proficiency step up for completing 4 years, charge-sheet dated 14.6.2013, contempt proceedings and ACR communication dated 09.11.2015 were not existing. It is to be noted that imposition of censure penalty and fine in the year 2010 and 2012 are not for a specific period. In other words as and when the imposition of punishment of censure is imposed and imposition of fine would not come in the way of petitioner's name for consideration for promotion. For granting the benefit of proficiency step up, employee must be adjudged as good and suitable for promotion. In this regard, the concerned respondent is hereby directed to re-consider petitioner's claim for proficiency step up while taking into consideration only the imposition of penalty of censure and fine in the year 2010 and 2012, respectively. The concerned respondent is hereby directed to re-consider petitioner's grievance within a period of 4 months from today. If petitioner is otherwise eligible in that event benefit be extended at the earliest. If he is not eligible then pass a speaking order and communicate the same to the petitioner.

Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

July 27, 2017.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.