

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Date of Decision:-09.05.2017

CWP No.2502 of 2015(O&M)

Dharam Pal & Ors.

.....Petitioners.

Versus

State of Punjab & Ors.

.....Respondent.

AND

CWP No.5210 of 2016

Balwinder Kumar.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. K.S. Dadwal, Advocate for the Petitioners
(in **CWP No.2502 of 2015**).

Mr. Padamkant Dwivedi, Advocate for the Petitioner
(in **CWP No.5210 of 2016**).

Mr. Vaibhav Sharma, Deputy Advocate General, Punjab
assisted by Ms. Paramjit Kaur, Senior Assistant, Technical
Education Department, Punjab, Chandigarh.

JASWANT SINGH, J. (ORAL)

This common order shall dispose of both the aforesaid writ
petitions as common question of law is involved.

For the sake of convenience, the facts are being taken from CWP No.2502 of 2015. The petitioners (in both the petitions), who were earlier working as Drawing Instructors and thereafter as Demonstrators were re-designated/converted as Lecturers vide letter dated 3.8.1987 issued by the State Government and at present are working as Senior Lecturers/Lecturers as per their seniority. They are aggrieved against the orders dated 22.11.2012 (**P-9**) in CWP No.2502 of 2015 and 23.10.2012 (**P-8 Colly**) in CWP No.5210 of 2016 whereby, their claim for grant of benefit of 4/9/14 years promotional scheme under the Dynamic Assured Career Progression Scheme has been declined on the ground that the benefit of this Scheme can only be given to direct appointees and not to the converttees.

The claim of the petitioners is that vide notification dated 17.04.2000 (**P-4**), 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. Thereafter vide circular dated 5.6.2007 (**P-6**), the Department of Personnel clarified that the benefit of this Scheme is extended to the promotees to the post of categories mentioned in the Notification dated 17.04.2000 (**P-4**). However, the petitioners have been discriminated on the ground that the Scheme is not applicable to them because they have been re-designated from the post of other nomenclatures to the post of Lecturers.

Learned Counsel(s) for the Petitioners on the strength of the facts referred above, have argued that for no reason the petitioners have been discriminated and such discrimination violates the principle of Article 14 & 16 of the Constitution, especially when the nature of duties assigned to the petitioners is same as that of direct recruitees/promotees to the post of

Lecturers. In support of their arguments, counsel for the petitioners have relied upon judgment passed by a Co-ordinate Bench of this Court in **Pritpal Kaur Vs. State of Punjab & Ors. CWP No.16914 of 2014 Decided on 05.04.2017**, wherein it has been held that the benefit of Dynamic ACP Scheme should be made available to the direct appointees as well as the promotees.

On the other hand, learned Counsel for the State has argued that as per the Instructions issued by the Department of Personnel, Punjab dated 17.4.2004 (**P-4**) and 05.06.2007 (**P-6**), the benefit of Dynamic ACP Scheme has been extended to only those Lecturers who were appointed by way of direct recruitment. However, no such instructions are there to include the re-designated Lecturers for the benefit of aforesaid Dynamic ACP Scheme.

After hearing learned Counsel for the parties and perusing the paper book with their able assistance, this Court is of the considered view that both the above said petitions deserves to be allowed.

The facts of the present case as not much in dispute. The Instructions dated 5.6.2007 (**P-6**) issued by the Department of Personnel, Punjab in consultation with the Department of Finance, Punjab, has clarified that the benefit of this Dynamic ACP Scheme (**P-4**) has been extended to the employees appointed by way of promotion as well. Admittedly, petitioners have been re-designated to the post of Lecturers by way of Govt. Instructions/letter dated 03.08.1987 and thus have been absorbed in the department with the nomenclature of Lecturers. The discrimination which the petitioners have alleged is apparent on the face of the record because the Lecturers, either Direct appointees or Promotees or Re-Designated, are doing similar nature of work and have the same pay scales. If that be so, no

distinction can be made amongst the same cadre of employees by depriving them of any scheme which the State implements for its employees. The purpose of the Dynamic ACP Scheme is to keep them motivated due to the otherwise, stagnated chances of promotion. Thus, there is no doubt in the mind of this Court that the petitioners are also entitled for the grant of benefits of Dynamic ACP Scheme, as given to the employees of the same cadre.

Consequently, respondents are directed to grant the benefit of Dynamic ACP Scheme to the petitioners as per the Instructions dated 17.4.2004 (P-4) and 5.6.2007 (P-6) and thereafter release the benefits in the form of Pay revision etc. within a period of three months from the date of receipt of certified copy of this order.

Both the petitions stands allowed in the above terms.

(JASWANT SINGH)
JUDGE

May 09, 2017
Vinay

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