

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

CWP No.5956 of 2015 (O&M)

Date of decision : 10.01.2017

Manjit Singh Bahra

..... Petitioner

Versus

The Principal Secretary, Department of Irrigation, Punjab.
and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Vikas Singh, Advocate
 for the petitioner.

Mr. Nikhil Chopra, DAG, Punjab.

KULDIP SINGH J. (ORAL)

The case of the petitioner is that he was working in the Irrigation Department, State of Punjab. He was promoted as SDO on 02.12.1982 along with 15 other employees. He retired from service on 30.11.1997. It also comes out that though the petitioner was promoted with 15 other employees on 02.12.1982 but he joined only on 18.02.1983 which is not disputed by the petitioner. The petitioner claims that he completed 14 years of his service on 14.02.1986 as SDO, however, the proficiency step up of increment after completion of 14 years was not given to him.

The State in the reply has not denied the ACP scheme and that on completion of 14 years of service, the ACP must be granted. It was pleaded that though the petitioner was promoted as SDO on 02.12.1982 and his posting orders were issued but he joined on 18.02.1983. It is further pleaded that as per instructions dated 17.04.2000, the benefit ACP is to be granted on 1st January, of the next year in which he completes 04/09/14 years of service as the case, may be. Since, the petitioner retired on 30.11.1997, he was not granted ACP

on completion of 14 years of service.

Regarding the case of Sh. Jasbir Singh Jandu, SDO, who was junior to the petitioner and was granted ACP on completion of 14 years service, it is stated that the instructions dated 17.04.2000 were not brought to the notice in deciding his case.

The admitted fact in this case is that the petitioner joined as SDO on 18.02.1983, therefore, he would complete 14 years of service on 18.02.1997. The petitioner retired from service on 30.11.1997. As per the notification dated 19.05.1998 implementing the Punjab Civil Services (Revised Pay) Rules, 1988 issued under Article 309 read with Clause (3) of Article 187 of the Constitution of India, by the Governor of Punjab, in consultation with the Speaker of the Punjab Vidhan Sabha, it was stipulated that in case of Sub-Divisional Engineer the ACPs scale is to be given after completion of 4 years of regular service in the existing scale and thereafter 9 years of regular service of entry dated scale and then further scale on completion of 14 years of service 14300-18150 was to be granted after completion of 14 years of regular service. The notification dated 19.05.1998 (Annexure P-8) does not stipulate that such scale is to be granted from the January of next years in which the employee completes 4/9/14 years of service. The State relying upon the executive instructions dated 17.04.2000 issued by the Department of Personnel of Government of Punjab in which guidelines have been issued by the Government which inter alia provide as under:-

“ All placements in higher scales shall be given effect to from the First day January of the year next to the year in which an employee completes the span of service required for placement in the higher scale.”

I am of the view that the guidelines cannot override the notification issued in exercise of the powers under the Constitution of India which has the force of law. The instructions contrary to the said notification having force of law, are to be ignored. The notification dated 19.05.1988 (Annexure P-8) stipulates that 14 years of proficiency step up to be granted on completion of 14 years of regular service in the entry scale. Since the petitioner completes 14 years of regular service on 18.02.1997, therefore, the petitioner is entitled to entry scale on completion of 14 years of service from the said date and the guidelines given in Annexure R-1 reproduced above are to be ignored. Even in case of Jasbir Singh Jhandu, who was junior to the petitioner and was promoted vide same order, he was also granted 14 years ACP scale on completion of 14 years service w.e.f. 18.02.1997. Therefore, whether the instructions dated 17.04.2000 (Annexure R-1) were brought to the notice of the Court in said case or not, hardly makes any difference.

Consequently, the present petition is allowed . The respondents are ordered to grant the proficiency step up to the petitioner on completion of 14 years as on 18.02.1997. Consequently, the pension of the petitioner shall also be revised. The arrears of the revised pay and the pension shall be released to the petitioner within 3 months from the date of receipt of a certified copy of this order. Since, the petitioner approached this Court only in the year 2015, he will not be entitled to any interest on the arrears and interest shall be paid to the petitioner from the date of filing to present writ @ 9% per annum till its payment.

(KULDIP SINGH)
JUDGE

10th January, 2017
hemlata

Whether speaking/reasoned
Whether reportable

Yes
Yes