

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

CWP No.4999 of 2014 (O&M)

Date of decision: 09.10.2018

Parvesh Chander Chadha

...Petitioner(s)

Versus

Punjab State Power Corporation Ltd. and another

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. J.S. Jaidka, Advocate for the petitioner(s).

Mr. Parminder Singh-I, Advocate for the respondents.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioner seeks quashing of impugned order dated 31.12.2013 (Annexure P-8) passed by respondent No.2 vide which the representation of the petitioner has been decided unfavourably.

The respondents have withheld the benefit of Assured Career Progression (for short 'ACP') of 8, 9 and 16 years on the ground that the petitioner had forgone his promotion to the post of SAS Accountant. It is asserted that in fact the 8 and 9 yearly increments had become due much prior to the date of forgoing the promotion which debars the petitioner for promotion for three years which had already elapsed, therefore, there was no cogent reasons with the respondents to withheld the benefit of increments, particularly when neither there was complaint or pending enquiry against the petitioner. In support of his contentions, learned

counsel has placed reliance upon CWP-2587 of 2009 titled as **Rattan Chand** Vs. **Punjab State Electricity Board and others**, decided on 12.08.2010 and CWP-13449-2011 titled as **Om Parkash** Vs. **Punjab State Power Corporation Ltd. and others**, decided on 01.06.2016.

Per contra, learned counsel for the respondents submits that the petitioner had himself forgone his promotion to the post of SAS Accountant vide his letter dated 01.09.1998 due to which he was debarred for promotion as well as for grant of 9/16 years time bound promotional scale for three years. He further states that after expiry of three years, the petitioner was to make a request for grant of 9/16 years time bound promotional scale, however, he did not make any such request. He further states that the petitioner was not entitled to any promotion and ACP benefits as his case was considered for promotion on 13.08.2014 by Departmental Promotion Committee and he was not found eligible for promotion as he failed to get the required bench marks i.e. 13.

At this stage, learned counsel for the petitioner refers to Annexure P-11, the correspondence dated 17.07.2002 addressed to the respondents which has been duly received by the respondents to contend that the petitioner had duly represented to the respondents in the year 2002 for promotion.

I have heard learned counsel for the parties and perused the record.

The petitioner is claiming 8, 9 and 16 yearly increments which are stated to be withheld by the respondents on the ground that the

petitioner never represented to the authorities after three years of his request vide which he declined for promotion to the post of SAS Account. The petitioner joined the respondent Corporation on 13.08.1977 as Lower Division Clerk; he was promoted to the post of Upper Division Clerk on 18.12.1982 and thereafter, he stood promoted to the post of Revenue Accountant on 08.06.1987. The next promotion of SAS Account became due to him in the year 1998, however, he declined the offer of promotion vide his request dated 01.09.1998, consequent to which he was debarred for promotion for three years, vide order dated 18.11.1998 (Annexure P-1). A perusal of letter dated 17.07.2002 (Annexure P-11) reveals that the petitioner had duly represented before respondent No.2 for grant of promotion, however, his case was not considered. The argument raised by learned counsel for the respondents that no such letter was ever received is not tenable as the same bears the seal and stamp of the department. It is not the case of the respondents that the seal has been forged by the petitioner, therefore, there is no reason to deny the benefit to the petitioner. It is also not the case of the respondents that there was any enquiry or disciplinary proceedings pending against the petitioner and the respondents being in possession of the service record were under obligation to release the benefits as and when the same become due to them, therefore, the benefit of increments could not be granted to him. The petitioner who has since retired and served the respondent Corporation with full dedication for more than three decades has not claimed the benefit for the period when he had forgone his promotion,

therefore, there is no question of denial of legitimate claim of the petitioner by the respondents for the subsequent period.

Keeping in view the above, the present petition is allowed. It is ordered that the petitioner shall be paid the benefit of increments due to him from the date of Annexure P-11 i.e. 17.07.2002 till his superannuation within a period of three months from the date of receipt of certified copy of the order.

09.10.2018

sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
-----------------------------	-----	----

Whether Reportable :	Yes	No
----------------------	-----	----