

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 17569 of 2012
Date of Decision : 01.03.2019

Sunder Lal

...Petitioner

Versus

Chaudhary Charan Singh Haryana Agricultural University, Hisar and
others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ramesh Goyat, Advocate for the petitioner.

Mr. Shailender Singh, Advocate for the respondents.

Harsimran Singh Sethi, J.(Oral)

In the present writ petition, the prayer which is being made by the petitioner is that his work charge service rendered in the respondents-University should be calculated for the grant of ACP. The said benefit has been denied to the petitioner vide order dated 21.04.2011 (Annexure P-4), which is under challenge in the present writ petition.

As per the facts mentioned in the writ petition, the petitioner was appointed as a Work Inspector on work charged basis on 13.10.1976 and he continued working as such till his services were regularized w.e.f. 1.1.1987.

Learned counsel for the petitioner states that the respondents had issued a Scheme for the grant of ACP after rendering 10 years of regular service. The ACP Rules came into being in the year 1998, which

were effected from 2006 and as per the Rules which were promulgated in the year 2006 and were effected w.e.f. 01.01.2006, an employee was entitled for the grant of ACP grade after completion of regular 10 years effective service. Learned counsel for the petitioner further states that the benefit of work charge service needs to be counted for the grant of ACP benefit, as the same benefit has been given to the petitioner for the grant of additional increment of higher standard pay scale. Petitioner retired from service on 31.05.2009 and thereafter he made representation dated 14.06.2010 (Annexure P-3) to the respondents for granting him the benefit of ACP after completion of 20 years of service by calculating the work charge service.

The respondents-University considered the case of the petitioner and declined the said benefit vide order dated 21.04.2011 (Annexure P-4) on the ground that the ACP can only be granted after completion of 10/20 years of **regular satisfactory service**, which the petitioner does not have in the cadre in which the ACP is sought for. It is relevant to mention here that the petitioner got a promotion to the post of J.E. in the year 2002 and, therefore, the petitioner did not have continuous 20 years service in the cadre of work Inspector or in the cadre of J.E. as the case may be.

Upon notice of motion, the reply has been filed by the respondents. In the reply, again the same objection has been taken that the work charge service cannot be taken into account for the grant of benefit of the ACP. The relevant paragraph 9 of the reply is as under:-

“That in reply to the contents of this Para, answering respondent states that the case of the petitioner has been considered in accordance with the rules for grant of ACP

*scales. As stated by the petitioner in Rule No. 5 Eligibility for grant of ACP scale, no where it has been mentioned that work charged service is to be counted for grant of ACP scale but the ACP scale is to be granted on completion of 10/20 years **regular satisfactory service**. As stated by the petitioner he (sic) joined the University on work charge basis and his services have been regularized w.e.f. 1.1.1987 meaning thereby the petitioner is regular employee of the University w.e.f. 01.01.1987 and the University has rightly denied the benefit of the ACP scale by not counting his work charged service as it is not covered under the rules for grant of ACP scales. Hence there is no violation of the judgment dated 22.4.2003.”*

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The grouse of the petitioner is that in the cadre of Work Inspector, his service should be counted from the date of his initial appointment i.e. 13.10.1976, on which date, he was appointed on work charge basis. Learned counsel for the petitioner states that if the period is counted from 13.10.1976, then petitioner has 26 years of service to his credit in the cadre of Work Inspector so as to entitle him the ACP after rendering 20 years of service in the cadre of work Inspector. Before adverting to decide the said claim, the Rules for the grant of ACP needs to be noticed. The relevant Rules according to which the case of the personnel are to be considered for the grant of increment, are as under:-

“7. Eligibility for Grant of ACP grade Pay under the general ACP scheme:-

(i) Every Government servant covered under the general ACP scheme shall, for the purposes of drawal of pay, be eligible for the first ACP grade pay (given in column 4 of Part II of Schedule I in respect of the functional pay scale or pay

structure of his post) if he has completed 10 years of regular satisfactory service and has not got any financial upgradation in these ten years with reference to the functional pay structure of the post to which he was recruited as a direct entrant. Financial upgradation in this context includes functional promotion in the hierarchy or further revision/modification of the pay structure for the same post after 1.1.2006.

(2) Every Government servant covered under the general ACP scheme shall, for the purposes of drawal of pay, be eligible for the second ACP grade pay (given in column 5 of Para II of Schedule I in respect of the functional pay scale or pay structure of his post) if he has completed 20 years of regular satisfactory service and has not got any financial upgradation in the last ten years. Financial upgradation in this context includes functional promotion in the hierarchy or further revision/modification of the pay structure for the same post after 1.1.2006.

(3) Every Government servant covered under the general ACP scheme shall, for the purposes of drawal of pay, be eligible for the third ACP grade pay (given in column 6 of Para II of Schedule I in respect of the functional pay scale or pay structure of his post) if he has completed 30 years of regular satisfactory service and has not got any financial upgradation in the last ten years and has not got more than two financial upgradation so far. Financial upgradation in this context includes functional promotion in the hierarchy or further revision/modification of the pay structure for the same post after 1.1.2006.

(4) In case of a Government servant who gets promoted, he will be considered for the next ACP grade pay after he completes 10 years of regular satisfactory service in the promotional post without any financial upgradation and will be entitled to the next ACP grade pay with reference to the grade pay of the promotional post he holds: Provided that a

Government servant shall not be entitled to avail ACP upgradation if, he has already availed of three financial upgradation of any kind in his career.

Note.- For the purpose of these rules, “regular satisfactory service” means continuous service counting towards seniority under Haryana Government, including continuous service in Punjab Government before re-organization, commencing from the date on which the Government servant joined his service after being recruited through the prescribed procedure or rules etc. for regular recruitment, in the cadre in which he is working at the time of being considered his eligibility for grant of ACP pay band and grade pay under these rules and further fulfilling all the requirements prescribed for determining the suitability of grant of ACP pay structure.

Explanation.- The ACP pay structure upgradation in the form of first ACP grade pay will come into play only if a Government servant has not got the benefit of at least one grade pay upgradation within the prescribed period of first 10 years. Similarly, the second and third ACP grade pays will come into play only if a Govt. servant does not get two upgradations after twenty years of service and three upgradations after thirty years of service. If within 10 years of service, the Government servant has already got at least one financial upgradation or within 20 years of service, the Government servant has already got at least two financial upgradations or within 30 years of service, the Government servant has already got at least three financial upgradations, benefit of these rules will not be extended to such employees save if otherwise provided in these rules.”

A bare perusal of the above Rule would show that 10 or 20 years regular service is needed for the grant of 1st/2nd ACP to the employees, who though were eligible for promotion but could not get the same. The

word '**Regular Satisfactory Service**' has also been defined under the Rules i.e. the service which count towards the seniority.

In the present case, it has been admitted by the petitioner himself that the service which he rendered from 13.10.1976 till 31.12.1986, has never been counted for the grant of seniority. Further, the **regular satisfactory service** means when a person has been brought on regular establishment under the Rules. The petitioner became regular only on 01.01.1987.

Under these circumstances, the case of the petitioner is not covered under the Rules for the grant of benefit of work charge service, which the petitioner is claiming in the present writ petition. Even otherwise, there is no challenge to the Rules, according to which, the benefit of ACP is to be extended to an employee. Once the Rules envisage **regular satisfactory service**, the respondents are well within their rights to decline the claim of the petitioner to count the work charge service rendered by him for the grant of ACP benefit.

In view of the above, no fault can be found with the impugned order dated 21.04.2011 (Annexure P-4) declining the benefit to the petitioner.

The petition is dismissed with no order as to cost.

March 01, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned? *Yes/No*
Whether reportable? *Yes/No*