

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

**CWP-10289-2016 (O&M)
Date of decision : 05.03.2019**

Amarjit Kaur

...Petitioner(s)

Versus

The State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Arvind Kashyap, Advocate,
for the petitioner(s).

Mr. TPS Chawla, DAG, Punjab.

JITENDRA CHAUHAN, J.

By way of the instant petition filed under Article 226 of the Constitution of India, the petitioner, *inter alia*, seeks issuance of a writ of Certiorari quashing the order dated 08.09.2015 (Annexure P-19) whereby, the claim of the petitioner for grant of benefit under the Assured Career Progression Scheme from due dates was rejected.

It is contended that the petitioner was appointed as a Lady Attendant (Class IV post) on regular basis w.e.f. 30.12.1996. The State of Punjab vide circular dated 25.09.1998 (Annexure P-1) decided that a employee serving on a particular post for 8 years without any promotion on account of non-availability of a vacancy at such higher level, shall be entitled to pay scale attached to the next higher level. Similarly, an

employee after 16 and 24 years of service shall be entitled to proficiency step-up if he or she continues on the same post. Subsequently, vide circular dated 03.11.2006 (Annexure P-2), it was decided that the employees shall be entitled for grant of benefit under the Assured Career Progression Scheme on completion of 4, 9 and 14 years of service in a cadre w.e.f. 01.11.2006. However, it was provided that existing employees including those employees having less than 4 years of service will have the option either to continue in the existing Assured Career Progression Scheme of 8, 16, 24 and 32 years service or to opt for the new 4, 9 and 14 years scheme. The petitioner having joined the services on 30.12.1996, completed eight years of service on 30.12.2004. Hence as per circular dated 25.09.1998 (Annexure P-1), the petitioner was entitled to first ACP on 30.12.2004 and accordingly, she represented before the authorities for grant of said benefit. The District Welfare Officer, Hoshiarpur, vide office memo dated 30.04.2007 (Annexure P-7) wrote to the Director, Welfare Department, Punjab, informing that the ACR reports of the petitioner for the period 1998 to 2003 were not recorded. Meanwhile, after the issuance of circular dated 03.11.2006 (Annexure P-2), the petitioner opted for ACP scheme of 4, 9 and 14 years. She again represented on 18.05.2012 (Annexure P-12) which was recommended by the District Welfare Officer to the Director, Welfare Department, Punjab on 27.08.2012 (Annexure P-13). Ultimately, vide letter dated 28.01.2014 (Annexure P-14), issued by respondent No.2, the petitioner was granted benefit under the ACP scheme on completion of 4 years of service w.e.f. 01.04.2008. Thereafter, the benefit of 9 years of

service was granted on 21.07.2015 w.e.f. 01.04.2013. The grouse of the petitioner is that she is entitled to benefit under the ACP Scheme w.e.f. 30.12.2004.

It is contended that the Annual Confidential Reports for the period 1998-99, 1999-2000, 2000-2001, 2001-2002 and 2002-2003 were not recorded by the competent officer, for which no fault can be attributed to the petitioner. The reports as admitted by the respondents for the rest of the period was assessed as good and very good, therefore, the reports for the period in question ought not be taken as satisfactory, which amounts to an adverse report for the purpose of grant of benefit under the ACP scheme.

On the other hand, learned State counsel submits that the petitioner completed 8 years of service on 29.12.2004 and as on that date, the service report of the petitioner was not 'good' upto 50% as required for grant of proficiency step-up.

Heard.

As per record, the claim of the petitioner has been declined only on the ground that the service report of the petitioner is not good upto 50%. The respondents have concluded so after recording 'satisfactory' remarks for the period 1998-99, 1999-2000, 2000-2001, 2001-2002 and 2002-2003, as the annual confidential reports of the petitioner were not recorded. Admittedly, the reports of rest of the period are 'Good' and 'Very Good'. The respondents have not been able to explain the logic behind recording 'satisfactory' remarks for the ACRs pertaining to the period in question. Moreover, such an action by the respondents has put the

petitioner in a disadvantageous position and non-recording of the ACRs cannot be attributed to her.

In view of the above, the instant petition is allowed; impugned order dated 08.09.2015 (Annexure P-19) is hereby quashed; and the respondents are directed to grant the benefit of ACP scheme on completion of 8 years of service w.e.f. 30.12.2004 and accordingly in accordance with the ACP Scheme. The needful be done within a period of six weeks from the date of receipt of a certified copy of this judgment.

Allowed.

05.03.2019

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**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No