

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.1196 of 2016 (O&M)
Date of decision : 25.1.2019

Smt.Shukla Bahl

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Ravindra Jain, Advocate for the petitioner.

Mr.Harish Rathee, Sr.DAG Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

The petitioner was granted ACP pay scale. Soon thereafter, she was promoted in 2013 as Home Science Mistress. As per the ACP Scheme on promotion, person loses his right to ACP benefit previously awarded. This is how the recovery notice was issued to the petitioner, to recover the amounts paid in excess of entitlement. Some amounts were recovered till the petitioner approached this Court and obtained stay order on 21.1.2016. In view of Rule 14 regarding eligibility for grant of ACP grade pay under the general ACP Scheme there is no doubt left.

Rule 14 of the Civil Service (ACP) Rules, 2008 provides as follows:

“In case the Government servant chooses to forego any functional promotion on any ground whatsoever, while drawing his pay in any ACP pay structure with reference to him, he shall cease to be entitled to draw his pay in the ACP pay structure last granted to him and shall draw his pay in the pay band and grade pay he was drawing before the grant of the last ACP grade pay from the date of such forgoing of promotion.

However, the petitioner is entitled for the 3rd ACP Grade as per the Rule 7 of the ACP Rules, 2008 though, the Rule 14 is not applicable in the present form because the petitioner had already entitled for the 3rd ACP prior to the cause of action arises to the State in Rule 14 of 2008.

Learned counsel for the petitioner is unable to meet the argument advanced by the department. However, he submits that recovery deserves to be quashed in view of the judgment of the Supreme Court in ***State of Punjab and others Versus Rafiq Masih (white washer) (2015) 4 SCC 334***. There is merit in the submission. Accordingly, recovery notice and proceedings are set aside. The amounts recovered before the date of stay order shall be reimbursed to the petitioner within ten days from the date of receipt of a certified copy of this order.

As a result, the petition is partly allowed.

25.1.2019
Meenu

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No