

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

**CWP-25849-2014 (O&M)
Date of decision : 11.09.2019**

Dr. Rajinder Pal Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Anupam Bhardwaj, Advocate,
for the petitioner(s).

Ms. Anju Arora, Addl.A.G., 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 27.03.2012 (Annexure P-1) whereby, the claim of the petitioner for grant of benefit of proficiency step-up of 4, 9 and 14 years from due dates was rejected.

It is contended that the petitioner was appointed as Medical Officer on 23.09.1991. On completion of 20 years of service in the year 2011, he served three-months' notice dated 03.10.2011 for pre-mature retirement which was accepted and as such he stood retired on 02.01.2012. During the course of service, the petitioner had moved various representations for grant of proficiency step-up on completion of 4, 9 and 14

years of service but no action was taken thereupon. However, subsequent to his retirement on 02.01.2012, the petitioner was informed by the respondent-authorities vide letter dated 27.03.2012, that the benefit of placement in the higher pay scale w.e.f. 01.01.1996 could not be granted on completion of 9 years and 14 years of service, for want of requisite benchmarks. However, he was granted the benefit belatedly, w.e.f. 01.01.1999, 01.01.2004 and 01.01.2009, after his ACRs were found to be upto the mark.

Learned counsel contends that the benefit of placement in the higher pay scale on completion of 9 years and 14 years of service w.e.f. 01.01.1996 was denied to the petitioner solely on the ground that his confidential reports for the period in question were not upto the mark. However, such a stand is not sustainable inasmuch as the alleged adverse reports earned by the petitioner were not communicated. To the contrary, the petitioner had been representing to the respondent-authorities for grant of necessary relief but no action was taken till his voluntary retirement. It is only after his retirement, the respondents have issued the impugned letter dated 27.03.2012 (Annexure P-1), thereby, rejecting his claim for higher scale w.e.f. 01.01.1996.

On the other hand, learned State counsel submits that the petitioner was granted ACP of four years w.e.f. 01.01.1999 as he fulfilled the criteria of obtaining at least two good reports out of last three ACRs and overall 50% good record after the ACR for the year 1995-1996 and prior thereto, he was not fulfilling the criteria.

Heard.

As per the guidelines dated 17.04.2000, issued by the Department of Personnel for grant of Assured Career Progression Scheme benefits to the employees of the State Government, an employee is required to have more than 50% ACRs during the last five years as “Good” or above. Further, an employee is required to have at least two good reports out of the last three ACRs.

The chart depicting the ACRs of the petitioner for the period from 1991-92 to 2008-09, appearing in paragraph No.3 of the preliminary submissions of the reply filed by the respondents, reads thus:-

Sr. No.	Year of Report	Grading
1.	1991-92	No Report Certificate
2.	1992-93	No Report Certificate
3.	1993-94	No Report Certificate
4.	1994-95	No Report Certificate
5.	1995-96	Good
6.	1996-97	No Report Certificate
7.	1997-98	Good
8.	1998-99	No Report Certificate
9.	1999-2000	No Report Certificate
10.	2000-01	Very Good
11.	2001-02	Average
12.	2002-03	No Report Certificate
13.	2003-04	Very Good
14.	2004-05	Outstanding
15.	2005-06	Good
16.	2006-07	No Report Certificate
17.	2007-08	No Report Certificate
18.	2008-09	No Report Certificate
19.	2009-10	Very good
20.	2010-11	Very good

From the above, it is apparent that the ACRs for the first four

years were not recorded and therefore, were not taken into consideration. The ACR for the year 1995-96 was recorded as 'Good'. Again No Report Certificate was issued for the year 1996-97, whereas, the ACR for the year 1997-98 was again recorded as 'Good'. A perusal of the above chart as a whole reveals that either the ACRs were recorded as Good, Very Good and even Outstanding and for certain years, the Annual Confidential Reports were not recorded. Thus, the reports for the period from 1991-92 to 1994-95 which were not recorded at all, ought not have been read against the petitioner or read as adverse reports for the purpose of grant of benefit under the ACP scheme. The onus of recording of ACR is primarily on the Reporting Officer and inaction on his or her part cannot be attributed to the employee being reported upon. Such an action by the respondents has put the petitioner to a disadvantageous position.

In view of the above, the instant petition is allowed; impugned order dated 27.03.2012 (Annexure P-1) is hereby quashed; and the respondents are directed to grant the benefit of ACP scheme from due dates, on completion of 4, 9 and 14 years of service 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.

11.09.2019
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No