

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 7535 of 2016

Date of decision : February 26, 2019

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Rama Nand

.....Petitioner

Versus

UHBVNL and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. R.K Chudhary, Advocate for
Mr. Jagbir Malki, Advocate for the petitioner.

Mr. R.D Bawa, Advocate and
Mr. Samuel Gill, Advocate for the respondent.

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RITU BAHRI, J.

The petitioner is seeking directions to the respondents to grant the benefit of 3rd ACP w.e.f 09.04.2003 with all consequential benefits as per Haryana Civil Services (Assured Career Progression) Rules 2008.

Briefly stated, the facts of the case are that on 9.4.1973, the petitioner was appointed to the post of Assistant Lineman with the erstwhile Haryana State Electricity Board (now Uttar Haryana Bijli Vitran Nigam Limited). On 22.3.1995, he was promoted to the post of Lineman. He was given further promotion to the post of Assistant Foreman on 9.7.2007 and

on 31.3.2008, he retired from service after attaining the age of superannuation.

As per the case of the petitioner, he was given first promotion after 22 years of service i.e on 22.3.1995 after being appointed on 9.4.1973. He was granted the benefit of 2nd ACP w.e.f 1.1.1996. The petitioner retired on 31.3.2008. Vide notification dated 30.12.2008 the Government of Haryana introduced Haryana Civil Services (Assured Career Progression) Rules, 2008 (hereinafter referred to as ACP Rules of 2008) which were made applicable w.e.f 01.01.2008. The ACP Rules of 2008 were adopted by the Uttar Haryana Bijli Vitran Nigam Limited. As per the above said Rules, every government employee who got stagnated will get Ist ACP on completion of 10 years of regular satisfactory service, 2nd ACP on completion of 20 years of regular satisfactory service and 3rd ACP on completion of 30 years of regular satisfactory service. The case of the petitioner is after being granted second ACP w.e.f 1.1.1996, he was entitled to be given 3rd ACP on 9.4.2003 and hence the present petition.

On notice of the writ petition, the stand taken by the respondents in the written statement is that the petitioner was appointed to the post of Assistant Lineman on temporary basis as per letter of appointment dated 09.04.1973 (Annexure R-1). The petitioner was regularized to the post of Assistant Lineman on 01.04.1979 and up to 9.4.2003, he had not completed 30 years of regular service and as such he is not entitled to 3rd ACP Scale. Moreover, even up to his date of retirement i.e. 31.3.2008, he was not entitled for the same. From the date of

regularization to the post of Assistant Lineman on 1.4.1979, 30 years of regular service would be completed as on 1.4.2009. Hence, even on the date of his retirement, he was not entitled to grant of 3rd ACP. The petitioner was rightly given the benefit of second ACP w.e.f 1.1.1996 as per the ACP Rules of 1998 (Annexure P-1). In reply to paragraph 6 to 8 of the writ petition, it was further submitted that Government of Haryana vide notification dated 30.12.2008 (Annexure P-2) introduced Haryana Civil Service (Assured Career Progression Rules, 2008), which were made applicable w.e.f 01.01.2006. The petitioner retired from service on 31.3.2008, prior to introduction of ACP Rules 2008. The petitioner was granted 3rd ACP w.e.f 01.01.2006 with pay scale of Rs.5200-20200 and GP Rs.3300 to 3600/- vide letter dated 04.11.2016. However, the Chief Accounts Officer (PF Section), UHBVN returned the service book of the petitioner with the following remarks/after verification that:-

(i) the official was granted 3rd ACP w.e.f 01.01.2006 vide letter dated 04.11.2016 which is not in order as the petitioner was appointed as regular ALM on 01.04.1979 and completed 30 years service as on 01.04.2009, but the official retired on 31.3.2008 before the entitlement of 3rd ACP. Hence, 3rd ACP case may be withdrawn.

Heard counsel for the parties.

A perusal of the letter dated 06.12.2016 (Annexure R-3) makes it clear that petitioner was granted third ACP w.e.f 01.01.2006 but keeping

in view that he was appointed on regular basis on 1.4.1979, and he would complete his 30 years as on 1.4.2009, the third ACP was to be withdrawn. The written statement was filed on behalf of the respondents on 10.3.2017. The petitioner has not filed any replication. The petitioner retired on 31.3.2008. Thus, as per letter dated 6.12.2016 (Annexure R-3), he would complete 30 years of service as on 1.4.2009 and he could not be given benefit of 3rd ACP and it has been rightly withdrawn.

There are no merits in the writ petition and same is hereby dismissed.

February 26, 2019
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No