

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA-1398-2016 (O&M)

Date of Decision: 17.1.2019

Secretary to Government of Haryana, Department of Horticulture and others

...Appellants.

Versus

Hans Raj

...Respondent.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.**

PRESENT: Mr. Randhir Singh, Additional Advocate General, Haryana,
for the appellants.

Mr. Gurinder Pal Singh, Advocate for the respondent.

AJAY KUMAR MITTAL, J.

1. Delay of 107 days' in filing the appeal is condoned.
2. Challenge in this Letters Patent Appeal is to the order dated 19.2.2016 passed by the learned Single Judge whereby CWP-24313-2013 filed by the respondent was allowed.
3. Put shortly, the facts necessary for adjudication of the instant appeal as narrated therein may be noticed. The respondent was appointed as a Fieldman on 22.3.1974 in the Department of Agriculture, Government of Haryana. He was transferred to the Horticulture Department. The respondent was promoted as Clerk in the Department vide order dated 15.4.2009 w.e.f. 15.12.1992. Since the respondent was promoted w.e.f. 15.12.1992, therefore, he was entitled to the grant of 1st ACP w.e.f.

respondent on the ground that the respondent after being promoted as a Clerk in the year 1995, was granted the benefit of step up w.e.f. 1.2.2005. Accordingly, the respondent filed the writ petition and the learned Single Judge vide order dated 19.2.2016 allowed the said writ petition by directing the appellants to grant the benefit of ACP to the respondent w.e.f. 15.12.2002. Hence, the present Letters Patent Appeal.

4. After hearing learned counsel for the parties, we do not find any merit in the appeal.

5. The respondent was initially appointed as a Fieldman on 22.3.1974 and was promoted as Clerk on 1.8.1995. Since his junior, namely, Shri Partap Singh, Clerk was promoted w.e.f. 15.12.1992, on the representation made by the respondent, he was given deemed date of promotion to the post of Clerk w.e.f. 15.12.1992 vide order dated 15.4.2009. The respondent was to be granted ACP scales as per ACP Rules, 1998 and 2008. However, the respondent was granted ACP w.e.f. 1.2.2005 taking his promotion as Clerk in the year 1995. Since on the representation of the respondent, the date of promotion to the post of Clerk had been taken as 15.12.1992, the date of grant of ACP was to be taken as 15.12.2002 instead of 1.2.2005. The learned Single Judge had held that the 1st ACP should have been granted to the respondent w.e.f. 15.12.2002 and not from 1.2.2005, the date when his junior was granted ACP. The findings of the learned Single Judge read thus:-

“However, while passing order dated 25.03.2013 (Annexure P-4) the petitioner had been granted ACP w.e.f. 01.02.2005 as per the chart given, taking his date of appointment as 22.03.1974 as a Group D post. His date of promotion to the post of Clerk has been taken as 15.12.1992, in pursuant to the order dated 25.03.2013

(Annexure P-4). However, for the purpose of granting the date of ACP, the date had been wrongly taken as 01.02.2005 instead of 15.12.2002.

Learned counsel for the respondent in the written statement does not dispute that as per promotion order (Annexure P-1) the deemed date of promotion has been given to the petitioner at par with his junior. Explanation has been given in the written statement that after being promoted as a Clerk in 1995, the pay of the petitioner was stepped up at par with his junior Partap Singh, clerk, w.e.f. 01.02.2005, vide order dated 09.03.2010. Partap Singh was granted 1st ACP on 01.02.2005. The petitioner has been further promoted as Accountant on 14.12.2011.

The claim of the petitioner in the writ petition is only restricted to the grant of 1st ACP, which after the order (Annexure P-1) should have been granted to him w.e.f. 15.12.2002 and not from the date when Partap Singh was granted ACP i.e. 01.02.2005. This mistake requires to be corrected.”

6. No error could be pointed out in the aforesaid findings recorded by the learned Single Judge which may warrant interference. Accordingly, finding no merit in the appeal, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

January 17, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No