

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

LPA No.1749 of 2017(O&M)
DATE OF DECISION:13.02.2019

Sahi Ram

...Appellant

Vs.

State of Haryana & another

...Respondents

**CORAM:- HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE LALIT BATRA**

Present: Mr. Vinod Gupta, Advocate
for the appellant.

Mr. Ankur Mittal, Additional A.G., Haryana.

MAHESH GROVER, J. (Oral)

CM No.3766 of 2017

Application is allowed as prayed for.

Delay of 16 days in filing the appeal is condoned.

LPA No.1749 of 2017

This appeal is directed against the order of learned Single Judge dated 17.04.2017. The petitioner was appointed as a clerk on 01.10.1974 on adhoc basis and made regular as a clerk/steno typist on 03.03.1980 from where he earned a promotion as assistant on 12.07.1985 and promoted as an auditor on 12.02.1987. His claim before the writ Court was regarding grant of 3rd ACP as he said that he did not get the third upgradation after 30 years of services, even though he got the earlier two upgradations after 20 years. The learned Single Judge concluded that the rise of the appellant from the post of the clerk to an auditor would not imply any stagnation in service to entitle him to any financial upgradation.

Learned counsel for the appellant contends that such a reasoning is erroneous not only in law but also on facts. He has urged that the grant of ACP flows from the scheme and the appellant cannot denied this upgradation. He refers to the reply filed by the State before the writ Court to contend that the pay scale of a steno typist/assistant and an auditor is the same which means that he never got the third financial upgradation to which he was entitled to.

Learned counsel for the respondent on the other hand contends with reference to Rule 7(3) governing the eligibility for grant of ACP grade pay under the scheme where financial up gradation has been defined to include functional promotion in the hierarchy on further revision/modification of the pay structure on the same post after 01.01.2006. It is not in dispute that the petitioner was indeed promoted as an Assistant and then to the post of Auditor which is certainly a higher post with responsibilities distinct then the one attached to the post of an Assistant. At the time of this promotion, the appellant was granted an additional increment for higher responsibility. The appellant therefore cannot plead that he was entitled to 3rd ACP as there was no stagnation in his service. We therefore do not find any reason to differ with the findings of the learned Single Judge. Hence dismissed.

(MAHESH GROVER)
JUDGE

13.02.2019
rimpal

(LALIT BATRA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No