

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

CWP-10975-2015

Date of decision: 02.03.2020

Jai Kishan and another

...Petitioner(s)

V/s.

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Sandeep Singal, Advocate
for the petitioners.

Mr. Harish Nain, AAG, Haryana.

RITU BAHRI, J. (Oral).

By this petition, the petitioners are seeking quashing of order dated 16.12.2014 (Annexure P-3) whereby respondent No. 3 has rejected the claim of the petitioners for grant of 3rd ACP grade pay. The service details of the petitioners as stated in para 2 of the writ petition are as under:-

Petitioner No.1:

1. Appointed as T-Mate on Work-Charge basis on 15.02.1978.
2. Promoted as "Electrician" on Work-Charge basis on 26.12.1985.
3. Regularized as "Electrician" w.e.f. 01.01.1987 and is working as such till date.

Petitioner No.2:

1. Appointed as T-Mate on Work-Charge basis on 20.09.1974.
2. Promoted as "Electrician" on Work-Charge basis on 17.06.1983.
3. Regularised as "Electrician" w.e.f. 01.01.1987.
4. Retired as "Electrician" on 30.04.2014.

Learned counsel for the petitioners refers to Haryana Civil Services (Assured Career Progression) Rules, 2008 (hereinafter referred to as ACP Rules, 2008) (Annexure P-1) whereby the benefit of 1st, 2nd and 3rd ACP was granted after completion of 10 years, 20 years and 30 years of regular satisfactory service. However as per notification dated 04.03.2014 of the Finance Department (Annexure P-2) the general scheme of the ACP Rules had been amended by amending Rule 7 for giving 1st, 2nd and 3rd ACP after completing 8, 16 and 24 years respectively.

Learned counsel for the petitioners contends that both the petitioners were regularized on the post of Electrician w.e.f. 01.01.1987 and they have completed 24 years as on 01.01.2011 and hence they have right to be given benefit of 3rd ACP as per the notification dated 04.03.2014 (Annexure P-2).

On notice of this petition, reply has been filed by the Executive Engineer on behalf of all the respondents. On merit they denied the facts stated in para 2 of the writ petition. However in the preliminary submissions, in the case of petitioner No. 1-Jai Kishan, it has been inadvertently stated that though the petitioner No. 1 was promoted as Electrician on 26.12.1985 he was regularized as T-Mate (instead of Electrician) on 01.01.1987. The respondents themselves admit that petitioner No.1 was regularized as Electrician on 01.01.1987, the 1st ACP was granted to him on 01.01.1997 in the pay scale of Rs.5000-7850 and 2nd ACP was granted on 01.01.2007 in the basic pay of Rs.12740+3300 (Grade Pay) modified to Rs.16460+3600 w.e.f. 01.04.2014. Petitioner No.2-Ved Parkash was appointed as T-Mate on work charge basis on 20.09.1974 in

the pay scale of Rs.35-1-45 and was promoted as Electrician on 17.06.1983 in the pay scale of Rs.400-600 and regularized as Electrician on 01.01.1987 in the pay scale of Rs.950-1400. 1st ACP was granted to Sh. Ved Parkash on 01.01.1997 in the pay scale of Rs.5000-7850 and 2nd ACP was granted on 01.01.2007 in the basic pay of Rs.12740+3300 modified to Rs.16460+3600 w.e.f. 01.04.2014.

Keeping in view the date of regularization of petitioner No. 1-Jai Kishan as Electrician on 01.01.1987, the first ACP was granted on 01.01.1997 in the pay scale of Rs.5000-7850 and 2nd ACP was granted rightly on 01.01.2007 in the basic pay of Rs.12740+3300 (Grade Pay) modified to Rs.16460+3600 w.e.f. 01.04.2014. Similarly petitioner No. 2-Ved Parkash was regularized on the post of Electrician on 01.01.1987. The 1st ACP was granted on 01.01.1997 in the pay scale of Rs.5000-7850 and 2nd ACP was granted on 01.01.2007 in the basic pay of Rs.12740+3300 modified to Rs.16460+3600 w.e.f. 01.04.2014. However the claim of the petitioners for 3rd ACP has been wrongly denied on the ground that petitioner No.1-Jai Kishan was promoted to the post of Electrician on 26.12.1985 and petitioner No.2-Ved Parkash was promoted to the post of Electrician on 17.06.1983. Since the petitioners were already promoted on the post of Electrician, they are not entitled for 3rd ACP.

Learned counsel for the petitioners has referred to the judgment passed by the Supreme Court in ***Civil Appeal No. 890 of 2009 titled Punjab State Electricity Board and others V/s. Jagjiwan Ram and others*** 2009(3) S.C.T. 92 whereby it is held that time bound provisional scales and increments are applicable to regular employees which were

stagnating on particular positions for a long time and ad hoc or work-charged employees are not entitled for benefit of such time bound promotional scales of promotional increments. He has further referred to the judgment passed by this Court in *LPA-1667-2010 titled State of Haryana and another V/s. Om Parkash Nagra and others* 2012(2) S.C.T. 76 whereby it is held that service rendered on work-charge, adhoc basis or daily rate basis could not be counted for the purpose of seniority, promotion or some other benefits.

Keeping in view the aforesaid judgments, the argument of the respondents that the petitioners are not entitled for 3rd ACP, is liable to be rejected. For all intents and purposes, the work charged services of the petitioners cannot be counted for giving ACP benefits. After being regularized as Electrician in 1987, the petitioner No. 1 retired from the same post in the year 2015 and petitioner No. 2 retired from the same post in the year 2014 and the object of giving ACP grade is to remove stagnation on one post in the absence of regular promotion. Since none of the petitioners had been promoted after being regularized as Electrician, they have right to be given benefit of instructions dated 04.03.2014 (Annexure P-2) for granting 3rd ACP after completing 24 years of regular satisfactory service. The petitioners completed 24 years of regular service on 01.01.2011. The petitioners could only be denied benefit of 3rd ACP, if they had been promoted after grant of 2nd ACP in the year 2007. However, the Department did not make promotion for the last 24 years.

Hence, writ petition is allowed. Respondents are directed to grant the benefit of 3rd ACP as per notification dated 04.03.2014 (Annexure P-2) to the petitioners by taking the date of regularization on the post of

Electrician as 01.01.1987 since the Department itself has taken date of regularization on the post of Electrician as 01.01.1987 for the purpose of granting 1st and 2nd ACP.

02.03.2020
Divyanshi

(RITU BAHRI)
JUDGE

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