

109-a IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CWP No. 3002 of 2020 (O&M)
Date of decision : January 21, 2021

Jaspal Ram and othersPetitioners

Versus

State of Punjab and anotherRespondents
2. CWP No. 10879 of 2020 (O&M)

Madan Lal Dogra and othersPetitioners
Versus

State of Punjab and anotherRespondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr.Rakesh Sobti, Advocate for the petitioners.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

CWP Nos. 3002 and 10879 of 2020 are taken up for hearing and decision together as identical issue is involved therein.

Prayer in both writ petitions is that petitioners therein are entitled to the benefit under the ACP scheme on completion of 4 years, 9 years and 14 years of service on the date on which they completed the said period of service and not from 1st January of the year after completion of 4, 9 and 14 years of service.

I have heard learned counsel for the parties and have gone through the file.

Undisputed facts are that petitioners, in both the cases, have been afforded the benefit of ACP scheme not from the actual date of completion of 4 years, 9 years and 14 years of service but from 1st January of the year after completion of 4 years, 9 years and 14 years of service. Learned counsel for the

petitioners relies upon decision dated 10.01.2017 in CWP-5956-2015 titled as Manjit Singh Bahra versus The Principal Secretary, Department of Irrigation, Punjab and another (attached as Annexure P7 in CWP-3002-2015 and Annexure P5 in CWP-10879-2020) and decision dated 06.12.2019 in CWP-14913-2015 titled as Nareshjit Singh Anand and others versus State of Punjab and another (attached as Annexure P8 in CWP-3002-2015 and Annexure P6 in CWP-10879-2020). In the abovesaid petitions, benefit of ACP scheme on completion of 4 years, 9 years and 14 years of service as Sub Divisional Officer, has been granted to the petitioners, as per notification dated 19.05.1998. Standing instructions dated 17.04.2000, on which reliance was placed by the State in the said petitions was duly discussed in detail in Manjit Singh Bahra's case (supra).

In the reply submitted in the present writ petitions, benefit given to the parties in Manjit Singh Bahra and Nareshjit Singh Anand's case (supra) is not denied. It is stated that the State had decided to file LPA in Nareshjit Singh Anand's case (supra) but it is not denied that benefit has since been afforded to Nareshjit Singh Anand and others i.e. petitioners in CWP No. 14913 of 2015 and appeal has not been filed till date. Reliance has been strenuously placed on instructions dated 17.04.2000 to deny benefit to the present petitioners w.e.f. the date on which they actually completed 4 years, 9 years and 14 years of regular service.

Details regarding dates of completion of period of 4 years, 9 years and 14 years of service in case of all the petitioners, in both the writ petitions, have not been disputed and are therefore, not being narrated in the order. Clearly, stand taken by the respondent –State is obdurate and at total variance with decision dated 06.12.2019, which has been passed while relying upon decision dated 10.01.2017

in CWP-5956-2015. In Manjit Singh Bahra's case (supra), the Court has succinctly dealt with applicability of the standing orders/instructions dated 17.04.2000. It is provided in the standing orders/instructions dated 17.04.2000 that all placements in the higher scales shall be given effect from the first day of January of the year next to the year in which an employee completes the span of service required for placement in higher scale. After noticing notification dated 19.05.1998 and the standing orders/instructions dated 17.04.2000, it is observed in order dated 10.01.2017 in CWP-5956-2015 (Manjit Singh Bahra versus The Principal Secretary, Department of Irrigation, Punjab and another) as under:-

“ I am of the view that the guidelines cannot override the notification issued in exercise of the powers under the Constitution of India which has the force of law. The instructions contrary to the said notification having force of law, are to be ignored. The notification dated 19.05.1998 (Annexure P-8) stipulates that 14 years of proficiency step up to be granted on completion of 14 years of regular service in the entry scale. Since the petitioner completes 14 years of regular service on 18.02.1997, therefore, the petitioner is entitled to entry scale on completion of 14 years of service from the said date and the guidelines given in Annexure R-1 reproduced above are to be ignored. Even in case of Jasbir Singh Jhandu, who was junior to the petitioner and was promoted vide same order, he was also granted 14 years ACP scale on completion of 14 years service w.e.f. 18.02.1997. Therefore, whether the instructions dated 17.04.2000 (Annexure R-1) were brought to the notice of the Court in said case or not, hardly makes any difference.

Consequently, the present petition is allowed . The respondents are ordered to grant the proficiency step up to the petitioner on completion of 14 years as on 18.02.1997. Consequently, the pension of the petitioner shall also be revised. The arrears of the revised pay and the pension shall be released to the petitioner within 3 months

from the date of receipt of a certified copy of this order. Since, the petitioner approached this Court only in the year 2015, he will not be entitled to any interest on the arrears and interest shall be paid to the petitioner from the date of filing to present writ @ 9% per annum till its payment.”

Following this decision, CWP-14913-2015 (Nareshjit Singh Anand and others versus State of Punjab and another) was decided on 06.12.2019. The said decisions have been duly implemented.

Learned counsel for the State is unable to deny that no appeal (LPA) has been filed in either of the two cases. Still the State, steadfastly continues to rely upon instructions dated 17.04.2000 to take an unjustified stand that benefit under the ACP scheme is not to be released to the petitioners with effect from the date on which they actually completed 4 years, 9 years and 14 years of regular service. Such a stand is clearly untenable hence rejected. Once the matter clearly stands decided it is not open to the State to keep taking such a stand in complete contradiction to the orders passed earlier and thus perpetuating unnecessary litigation. Though I was inclined to impose costs but at ardent request of learned counsel for the State, desist therefrom.

Present writ petitions are, therefore, allowed in the same terms as in CWP-5956-2015.

Pending applications, in both the petitions if any, stand disposed of accordingly.

January 21, 2021
Rts

(Lisa Gill)
Judge

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