

**Sr. No. 127**

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

**CWP-23745-2021**

**Date of decision: 23.11.2021**

Dharambir Singh

...Petitioner

Vs.

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

**Present:** Mr. Suresh Ahlawat, Advocate,  
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

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**ARUN MONGA, J. (ORAL)**

Petitioner herein, *inter alia*, seeks issuance of a writ in the nature of mandamus directing the respondents to grant 3<sup>rd</sup> ACP Scale on completion of 24 years' regular service in January, 2021 as his services were regularized on 01.02.1996 as Beldar in Irrigation department vide order dated 19.03.2004 with all consequential benefits including arrears of salary of 1378 days with annual increment by treating the same as duty period for all intents and purposes.

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

The impugned order dated 05.10.2021 (Annexure P-5) is quite self-explanatory qua the period of service, which has not been added into service record of the petitioner owing to which he has been disentitled for grant of 3<sup>rd</sup> ACP. The relevant extract of the same is reproduced herein below:-

*“Whereas in the legal notice dated 10.03.2021 (Annexure P-3) the petitioner has claimed that he has completed 24 years regular satisfactory service in the month of January, 2021 and that he is entitled to 3<sup>rd</sup> ACP Scale w.e.f. 01.01.2021 on completion of 24 years of regular satisfactory service. He also contended that similar situated employee Mr. Balender Kumar Peon/Beldar was granted 3<sup>rd</sup> ACP scale w.e.f. 01.01.2021 vide order dated 19.01.2021 on completion of 24 years regular satisfactory service. The first contention of the petitioner is not correct that he has completed 24 years regular satisfactory service in the month of Jan. 2021, his contention would have been correct only if he had not remained on 1378 days Extra Ordinary Leaves. As the petitioner remained on 1378 days Extra Ordinary Leaves. Hence, he did not complete 24 years regular satisfactory service in the month of Jan. 2021. He has, in fact, completed 10 years regular satisfactory service on 01.12.2009 required for grant of Ist ACP scale as on that date, 16 years regular satisfactory service on 01.12.2015 required for grant of 2<sup>nd</sup> ACP scale on that date and he will complete 24 years regular satisfactory service on 01.12.2023 required for grant of 3<sup>rd</sup> ACP. The second contention that a similar situated employee has been granted 3<sup>rd</sup> ACP scale is also not correct because an employee remaining on Extra Ordinary Leave more than the other similarly situated employee and thus having lesser regular satisfactory service cannot claim the parity or benefit from the date, it is granted to the other similar situated employee having more regular satisfactory service. In the instant case the petitioner remained on Extra ordinary leaves for a period of 1378 days whereas the counterpart or similar situated employee in whose comparison the benefit is claimed, remained on Extra Ordinary Leaves only for 312 days.*

*Whereas, the facts of the case are that the services of the petitioner Sh. Dharambir Singh were regularized as Beldar in the pay scale of 2550-3200 w.e.f. 01.02.1996 and Extra Ordinary Leaves of 1378 days were sanctioned for the period from 3/1996 to 10/2003. The annual increments were allowed to the petitioner after excluding the period of Extra Ordinary Leaves. But the Ist ACP scale of 4440-7440+GP Rs.1650 was granted to the petitioner w.e.f. 01.01.2006 without excluding the period spent on Extra Ordinary Leaves. The 2<sup>nd</sup> ACP scale of Rs.4440-7440 +GP Rs.1800 was also granted to the petitioner w.e.f. 04.03.2014 on completion of 16 years of service without excluding the period spent on Extra Ordinary Leaves. However 3<sup>rd</sup> ACP scale is not granted till date.”*

On a Court query, learned counsel for the petitioner is unable to show any relevant documents to the effect that for the aforesaid period, petitioner was actually on duty and not on extra ordinary leave without pay.

Further more, he is unable to show that the period of extra ordinary leave without pay is to be counted for increment.

To my mind, the absence from work on extra-ordinary leave is to be treated as zero service period. Hence, no question arises for counting it as service rendered for grant of ACP.

In the premise, the over emphatic reliance by the learned counsel for the petitioner on Annexure P-2 vide which the services of the petitioner were regularized is also misplaced, in as much as, it nowhere indicates that the period of absence on extraordinary leave without pay would be treated as period in service for grant of ACP.

On the fact of it, therefore, there is no fallacy in computation of service period by excluding the extraordinary leave period of the petitioner.

No grounds are made out to interfere.

Dismissed.

**23.11.2021**  
vandana

**(ARUN MONGA)**  
**JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No