

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

213

CWP-25305-2014

DATE OF DECISION: 30.03.2022

VARINDER KUMAR SINGLA

... Petitioner(s)

Versus

HARYANA URBAN DEVELOPMENT AUTHORITY AND ORS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Vishal Sodhi, Advocate for the petitioner.

Mr. Lokesh Sinhal, Advocate for the respondents.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the order dated 09.10.2012 to the extent denying the benefit of promotion and the order dated 04.06.2014 whereby he has been denied the benefit of Assured Career Progression Scheme (ACP scheme).

Learned counsel for the petitioner contends that the petitioner had been appointed for 89 days as Assistant District Attorney on 03.03.1987 on *ad hoc* basis till the regular selection. He had been granted extension in service and when he was not granted extension in service, he had filed a writ petition bearing CWP No.7937 of 1987 and in terms of interim orders he was allowed to continue. The petition was disposed of on 10.05.1991 with a direction to respondents to appoint the petitioner as Assistant District Attorney purely on *ad hoc* basis and his services were not to be terminated till regular appointments to the post of Assistant District Attorney were made. The order of the Single Bench was challenged by the respondents by preferring LPA No. 1227 of 1991 which was disposed of on 30.03.2006 (Annexure P-4) by

observing that as the petitioner had been continuing in service for over 20 years, it would not be appropriate to dismiss the appeal as he had put in almost 20 years of service. He further contends that after the decision of the Division Bench, the services of the petitioner were regularized w.e.f. 01.05.1991 by the order dated 09.10.2012. A condition was put in this order that he would not be entitled to promotion which is arbitrary and unreasonable.

Learned counsel for the petitioner also submits that the petitioner would not claim any financial benefit in terms of the arrears of pay but his case may be considered for ACP and the benefit may be taken into account while computing his pension.

The order dated 09.10.2012 (Annexure P-6) denying the petitioner benefit of ACP scheme is also arbitrary as it is based on the condition in the order dated 01.05.1991.

Learned counsel for the respondent, however, contends that as the petitioner had been appointed purely on *ad hoc* basis for a period of 89 days and had continued in service due to the interim orders passed by the Single Bench, he had not been granted the benefit of promotion. His services were regularized in view of the order passed by the Division Bench that it would not be appropriate to discharge him as he had put in 20 years of service. The petitioner did not challenge the order dated 09.01.2012 and only after he was denied the benefit of ACP scheme, he has turned around and challenged this order.

Heard.

The petitioner has put in 26 years of service as Assistant District Attorney. His services were regularized w.e.f. 01.05.1991. Once his services were regularized it was not justified to impose a condition that he would not be entitled to promotion in future. The channel of promotion is from the post of Assistant District Attorney to Deputy District Attorney and further to District Attorney. The petitioner does not suffer from any disqualification for promotion to these posts but he had not been promoted on account of the condition imposed in the order of regularization. The respondents may have denied petitioner the benefit of promotion but it would be highly unjust to deny him the benefit of ACP scheme which is meant to benefit the employees who have stagnated in service and have not been granted promotion. The petitioner has served for 26 years and therefore, he would be entitled to the benefit under the ACP scheme.

Consequently, the petition is partly allowed. The respondents would consider the case of the petitioner for granting him the benefit of ACP scheme. He would not be entitled to the arrears of salary but the benefit would be applicable for computing the petitioner's pension. He would also be entitled to the arrears of pension.

(ANUPINDER SINGH GREWAL)
JUDGE

30.03.2022

SwarnjitS

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