

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP No.7377 of 2019

Date of decision:08.05.2023

Raj Kumar

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Manohar Lall, Advocate
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana
for respondent No.1.

Mr. Amit Sheoran, Advocate
for respondent No.2.

SUVIR SEHGAL J.

1. By way of present petition, petitioner has *inter alia* sought issuance of a writ in the nature of *certiorari* for quashing the order dated 30.11.2017 (Annexure P-3) passed by respondent No.2, whereby, first ACP scale has been denied to the petitioner. He has sought a direction to the respondents for the grant of 1st ACP scale on completion of eight years of service and for release of the arrears of salary alongwith interest.

2. Counsel for the petitioner submits that the petitioner joined respondent No.1 as a Peon on 19.01.2009. He submits that under the Haryana Civil Services (Assured Career Progression) Rules, 2008 (for short “2008 Rules”), petitioner was entitled to the grant of first ACP on completion of eight years service. He submits that the benefit has been denied to the petitioner on the basis of Haryana Govt. letter dated

21.05.1973 (Annexure P-2), which provides that the officials, whose integrity is doubtful should not be brought on the slab of officials due for promotion. He submits that remarks in the ACR of the petitioner for the year 2009 was “not upto the mark” which has been wrongly interpreted “integrity doubtful” in terms of letter (Annexure P-2) and the petitioner has been wrongly denied the enhanced scale.

3. Prayer has been opposed by counsel representing respondents by making a reference to the written statement filed on behalf of respondent No.2. It has been submitted that the petitioner did not have a good service record and therefore, does not fulfill the requisite conditions laid down under the 2008 Rules.

4. I have heard counsel for the parties and perused the material placed on the record.

5. Rule 7(1) of the ACP Rules, 2008 provides thus:-

“7. Eligibility for grant of ACP Grade Pay under the General ACP scheme:-

(1) Every Govt. servant covered under the General ACP Scheme shall, for the purposes of drawal of pay, be eligible for the 1st ACP grade pay (given in column 4 of Part 2 of Schedule 1 in respect of the functional pay scale or pay structure of his post), if he has completed 10 years regular satisfactory service and has not got any financial upgradation in these 10 years with reference to functional pay structure of the post to which he is recruited as a direct entrant. Financial upgradation in this context includes functional promotion in the hierarchy or

further revision/modification of the pay structure for the same post after 01.01.2006.”

6. By an amendment in the year 2014, the period for grant of first ACP benefit was reduced to 08 years.

7. Annual Confidential Report of the petitioner for the year 2009 deserves to be noticed and its relevant extract is as under:-

“Points on which information is required:

1.	<i>Industry</i>	<i>Poor</i>
2.	<i>Handwriting & Neatness</i>	<i>Average</i>
3.	<i>Punctuality & Regularity</i>	<i>Not at all punctual</i>
4.	<i>Capacity & Intelligency</i>	<i>Too smart</i>
5.	<i>Acquaintance with Rules and Orders</i>	<i>Good</i>
6.	<i>Quickness in dispatch of business</i>	<i>No</i>
7.	<i>Manners & Powers of working with others</i>	<i>Good</i>
8.	<i>Fitness for promotion</i>	<i>No</i>
9.	<i>Integrity</i>	<i>Not upto the mark</i>
10.	<i>Defects, if any</i>	<i>Work shirker, tends to lies and very shrewd</i>
11.	<i>Whether the official remains present at the head quarter after closing hours/vacation or not</i>	<i>No</i>
12.	<i>Over all assignment (Outstanding, Very Good, Average, Below Average)</i>	<i>Below Average”</i>

8. From the material placed on record by the respondents, it is evident that the petitioner earned a “below average” ACR for the year 2009, besides average remarks against the Code and Conduct column of the ACR for the year 2010 (Annexure R-2). Insofar as ACR for the year 2011 is concerned, remarks against most of the column are “average” and overall assessment by the competent authority has also been mentioned as

“average”. Representation submitted by the petitioner for expunging the adverse remarks was rejected by respondent No.2 by order dated 17.08.2018 (Annexure R-9).

9. The essential condition for grant of the ACP grade is regular satisfactory service. From the above, it is evident that by no stretch of imagination, can it be said that the petitioner had a regular satisfactory service during the first eight years of his service tenure. Therefore, no interference is called in the impugned order passed by respondent No.2 declining the grant of first ACP.

10. Petition is bereft of merit and it is hereby dismissed.

(SUVIR SEHGAL)
JUDGE

May 08, 2023
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No