

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

CWP-6118-2023 (O&M)

Date of decision: 23.03.2023

Rameshwar Singh and others

....Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. Amrik Singh, Advocate for the petitioners

Mr.Vishnav Gandhi, DAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. The petitioners pray for the issuance of a writ in the nature of Certiorari to quash the memo issued on 29th April, 2010 by which Junior Engineers were deprived of the benefit of the Assured Career Progression Scheme notified by the Government on 3rd November, 2006. The writ petition has been filed on 20th March, 2023. The petitioners, on attaining the age of superannuation, have retired from service at different point in time, somewhere between 6 to 12 years ago.

2. The relevant facts, in brief, are required to be noticed. The petitioners claim to have joined as Surveyor on 29th April, 1990 while promoted as Junior Engineers on 9th August, 1995. On 3rd November, 2006, the Government of Punjab issued Assured Career Progression Scheme. The petitioners claim that they gave their respective options under 2000 scheme but the same were kept pending. Certain Junior Engineers filed CWP No. 16446 of 2010 challenging memo dated 29th April, 2010 which was allowed vide judgment dated 20th May, 2013.

On a careful reading of the judgment, it is evident that the petitioners were held entitled to the benefit of the instructions dated 3rd November, 2006 subject to the condition that they will have to opt for applicability of the scheme within one month from the date of judgment. The judgment passed in the writ petition was upheld in Letters Patent Appeal as well as by the Supreme Court while dismissing the Special Leave Petition.

3. The learned counsel representing the petitioners contends that the cause of action in favour of the petitioners is a continuous cause of action. Hence, they are entitled to the same benefit. From reading of the petition, it is evident that the petitioners for the first time, raised their claim vide notice dated 23rd September, 2022. Learned counsel representing the petitioners admits that previously, the petitioners were governed by the instructions dated 25th July, 2000, which provided for upgradation in order to avoid stagnation. The learned counsel further admits that the petitioners never gave their options pursuant to the judgment passed on 20th May, 2013.

4. This Court has considered the submissions. The incumbent is entitled to opt for the Assured Career Progression Scheme provided he gives his option within the prescribed time. It was for this precise reason, this Court while allowing CWP No. 16446 of 2010 granted opportunity to give option within one month. The learned counsel submits that this option was only with respect to the petitioners in that writ petition. The argument of the learned counsel is correct to that extent. However,

nothing debarred the petitioners to give their option or atleast make a request to the Department in this regard. The petitioners, at the cost of repetition, for the first time, sought the benefit under the Assured Career Progression Scheme by sending a notice on 23rd September, 2022. Hence, the case of the petitioners is not governed by Section 22 of the Limitation Act, 1963.

5. Dismissed
6. All the pending miscellaneous applications, if any, are also disposed of.

23.03.2023
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE