

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

249

CWP-14523-2021
Decided on : 29.11.2023

Bhagat Singh

. . . Petitioner

Versus

State of Haryana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Kartar Singh Malik-I, Advocate
for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present petition, prayer of the petitioner is that the order dated 25.06.2020 (Annexure P-3) passed by the respondents declining him the grant of benefit of ACP, be set aside.

2. The facts mentioned in the petition are that the petitioner was appointed as Patwari on 10.02.1986 and retired from the same post on attaining the age of superannuation on 30.06.2018. The prayer of the petitioner is that the petitioner was entitled for the grant of second ACP on completion of 24 years of satisfactory service which benefit was not given to him and the legal notice which was served by the petitioner after retirement to claim the said benefit was rejected by the respondents by the impugned order dated 25.06.2020 (Annexure P-3) which act on the part of the respondents is totally arbitrary and illegal.

3. In reply to the claim, the respondents have mentioned that the ACP is only to be given to the candidate who is eligible for the promotion to the next higher post but is not being promoted due to non-availability of promotional post, whereas in the present case, the petitioner was never eligible to be promoted as Kanungo as he had not passed the departmental examination, hence, once an employee is not eligible for promotion, no benefit of ACP can be granted to him keeping in view Rule 5 of the Haryana Civil Services (Assured Career Progression) Rules, 1998.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. It may be noticed that the petitioner never raised any grievance with regards to the non-grant of the ACP benefit while being in service and he retired in June, 2018 whereas the present writ petition was filed in the year 2021. The grievance raised is that on completion of 24 years of service, the petitioner was entitled for second ACP which was not being granted. Keeping in view the 1998 Rules governing the grant of ACP which have been reproduced in the written statement, it is clear that mere completion of a particular year of service is not the only criteria for grant of ACP benefit, a candidate/ employee has also to be eligible for promotion. The said condition is not being fulfilled by the petitioner as the petitioner never passed the departmental examination which is a mandatory condition to become eligible for promotion to the post of Kanungo. An employee who does not fulfill the qualification for promotion cannot be treated to have been stagnating in the feeder cadre so as to entitle him the benefit of Assured Career Progression Scheme.

6. Keeping in view the above, the claim of the petitioner for the grant of ACP has rightly been declined by the respondents as the petitioner was not eligible for the promotion to the post of Kanungo having not passed the departmental examination.
7. Dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

29.11.2023

Mehak	Whether reasoned/speaking?	Yes/ No
	Whether reportable?	Yes /No