

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-16540-2014(O&M)

Date of decision : 07.11.2023

Chetan Kumar Gupta

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Satyavir Singh Yadav, Advocate
for the petitioner.

Mr.Naveen Singh Panwar, DAG, Haryana.

Mr.Sapan Dhir, Advocate,
Mr.Amit Sharma, Advocate,
Ms.Nancy Jindal, Advocate and
Ms.Ripsy Goyal, Advocate
for respondents no.2 and 3.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the orders dated 02.08.2012 (Annexure P-5) and 08.10.2012 (Annexure P-8) vide which the petitioner has been allowed the pay scale of Rs.5500-9000 w.e.f. 01.04.2003 considering it modified pay scale of the post held by him and not allowing him the benefit of 1st and 2nd A.C.P. Scale and one increment of Rs.150/- in compliance to First National Judicial Pay Commission Report (Annexure P-1) and A.C.P. Rules 2008 as well as FD letter dated 28.06.20211 (Annexure P-3).

2. Learned counsel for the petitioner has submitted that the petitioner is entitled to the Ist A.C.P. w.e.f. 01.01.2006 and the IInd A.C.P.

scale w.e.f. 01.07.2006 and also one increment of Rs.150/- w.e.f. 01.04.2003 and all consequential benefits arising therefrom and has further prayed that the petitioner is also entitled to interest @ 9% per annum on the amount due to the petitioner from the date of it becoming due till the date of payment.

3. On 20.08.2014, a coordinate Bench of this Court was pleased to pass the following order:-

“Present: Mr. Ram Niwas Sharma, Advocate for the petitioner.

Petitioner was appointed as a Clerk on 4.6.1974 in the office of District & Sessions Judge, Jind. He was promoted as Assistant w.e.f 6.6.1986. It is averred that he was then promoted as Superintendent Grade II w.e.f 3.8.2006 and as Reader Grade-I w.e.f 14.7.2007. He on superannuation retired from service w.e.f 28.2.2013.

The claim is for grant of Ist A.C.P Scale w.e.f 1.1.2006 and IInd A.C.P Scale w.e.f 1.7.2006 on completion of 10/20 years of service without upgradation in the rank of Assistant w.e.f 6.6.1986 till 3.8.2006 as admissible under the Haryana Civil Services (Assured Career Progression) Rules 2008 (for short “2008 Rules”) and clarified by the Government vide letter dated 28.6.2011 (P.3).

It is evident that the claim of the petitioner for grant of A.C.P Scales under the 2008 Rules was declined vide order dated 2.8.2012 (P.5) passed by the District & Sessions Judge, Jind on the ground that the petitioner was granted a modifying/higher scale of Rs.5500-9000/- of Reader (Grade II) w.e.f 1.4.2003 (instead of 1.8.2005). It is contended that the said higher/modified scale of Reader Grade-II was never extended to the petitioner either w.e.f 1.8.2005 or 1.4.2003, therefore, due to lack of any upgradation in pay scale for more than 20 years as Assistant, he is entitled to ACP scales under 2008 Rules.

Notice of motion for 22.12.2014.

August 20, 2014

**(JASWANT SINGH)
JUDGE”**

4. On 31.07.2023, this Court was pleased to pass the following order:-

“A perusal of amended Annexure R-3 (page 117 of the paperback), filed on behalf of District & Sessions Judge, Jind, would show that the 1st

ACP had been granted to the petitioner on 01.01.1996 and on, 01.04.2003 the modified pay-scale had also been granted. A perusal of the order dated 02.08.2022 (Annexure P-5) would show that the petitioner has been granted the modified pay-scale of Rs.5500-9000 of Reader Grade-II w.e.f. 01.04.2003 instead of 01.08.2005.

Learned counsel for the petitioner, on instructions from the petitioner who is present in Court, has submitted that the 1st ACP has not been granted to the petitioner on 01.01.1996, although, the pay-scale of the petitioner was modified vide order dated 02.08.2012, but the petitioner was never given the benefit of the said modified/higher pay-scale of Rs.5500- 9000.

Petitioner is directed to file an affidavit on the above-said two aspects.

Learned counsel for respondents No.2 and 3 is also directed to produce the original record on the next date of hearing.

Adjourned to 29.08.2023.

To be taken up at 2.15 PM.

July 31, 2023”

5. Learned counsel for the petitioner, in compliance to the said order, has submitted an affidavit dated 17.08.2023 specifically stating that no Ist A.C.P. on 01.01.1996 was granted to the petitioner and no benefit of the modified pay scale of Rs.5500-9000 w.e.f. 01.04.2003 has been released to the petitioner till date.

6. Learned counsel appearing for respondents no.2 and 3 has very fairly submitted that neither the Ist A.C.P. has been granted to the petitioner on 01.01.1996 nor benefit of modified / higher pay scale of Rs.5500-9000 has been granted to the petitioner and an affidavit to this aspect has also been filed. It is further submitted that respondent no.3 would reconsider all the aspects and pass a speaking order within a period of one month from the date of receipt of certified copy of the present order and whatever amount is found due to the petitioner, would be released thereafter within a period of further one month.

7. Keeping in view the above said facts and circumstances, the present petition is disposed of with a direction to respondent no.3 to reconsider the matter in the light of the aforesaid admitted facts within a period of one month from the date of the receipt of the certified copy of the present order and after considering the same, pass a speaking order within the aforesaid period. The amount found due to the petitioner after passing of the said order would be paid to the petitioner within a period of one month thereafter.
8. Pending miscellaneous application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

November 07, 2023.
Davinder Kumar

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