

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

**CWP-21107-2014 (O&M)
Date of decision : 25.01.2023**

Anil Kumar Sabharwal

....Petitioner

Versus

Guru Angad Dev Veterinary and Animal Sciences University and others
...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sharwan Sehgal, Advocate for the petitioner.

Mr. B.S. Khehar, Advocate for the respondents.

PANKAJ JAIN, J. (ORAL)

This writ petition has been filed under Article 226/227 of the Constitution of India praying for issuance of a writ in the nature of mandamus in the form of direction to the respondents to grant the notional promotion to the petitioner along with all consequential benefits.

2. While issuing notice of motion the following order was passed :-

“Learned counsel for the petitioner contends that the case of the petitioner for promotion to the post of Accounts Officer was not considered on account of pendency of adverse remarks. On the representation of the petitioner the said adverse remarks were expunged. Meanwhile, the petitioner has retired from service on attaining the age of superannuation on 30.11.2012. The claim of the petitioner for grant of notional promotion on the post of Accounts Officer has been denied on the ground that since the petitioner had retired from service he cannot be given notional promotion.

Learned counsel relies on a decision of this Court in **Ram Dass vs. Commissioner & Secretary to Government of Haryana Printing and Stationery Department and others (2005)4 SLR 4** to contend that once the representation of the petitioner against the remarks recorded in the ACR are accepted, it is imperative for the official respondents to accept that the revised remarks stood substituted in the ACR w.e.f. the date it was originally recorded and consequently the petitioner was liable to be considered for promotion from that date and be given the deemed date of promotion.

Notice of motion for 19.01.2015.”

3. Facts are not in dispute. Admittedly, the adverse remarks against the petitioner as recorded in ACR for the year 2011-12 stand expunged vide communication dated 30th of November, 2012 placed on record at Annexure P-3. Trite it is that such expunction shall relate back to the date of ACR and the ultimately effect will be as if there are no adverse remarks in the ACR.

4. Mr. Khehar is not in position to dispute the factual position.

5. Resultantly, the present writ petition is disposed off with the direction to the respondents to consider the case of the petitioner for grant of notional promotion on the promotional cadre of Accounts Officer which had been earlier denied for the reason that the ACR for the year 2011-12 was adverse.

6. The petitioner has already retired. After granting notional promotion his pay needs to be re-fixed and the consequential relief *viz-a-viz* terminal benefits/pensionary benefits are also required to be paid to the

petitioner. Thus, the present petition is disposed off with direction to the respondents to release all consequential benefits to the petitioner after granting him notional promotion within a period of 12 weeks from the date of receipt of certified copy of this order.

7. Pending application(s) if any also stands disposed off.

January 25, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No