

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

207

CWP-18254-2017 (O&M)

Decided on : 07.12.2023

SURESH KUMAR

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Manoj Chahal, Advocate for the petitioner.

Mr. Ravi Dutt Sharma, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance of the petitioner is that the petitioner was entitled for the grant of second ACP w.e.f. 01.01.2010 whereas, the same has been granted to him w.e.f. 01.04.2013 and the prayer of the petitioner for the grant of benefit of ACP from 01.01.2010 has wrongly been rejected by the respondents vide impugned order dated 31.03.2016, copy of which has been appended as Annexure P-4 in the present petition and is under challenge.

Learned counsel for the petitioner submits that it is a conceded position that the petitioner was entitled for the grant of second ACP on 01.01.2010 whereas, the same has been granted to him on 01.04.2013 and hence, the date of the grant of second ACP i.e. 01.04.2013 needs to be revised so as to give the petitioner the benefit of ACP from the due date i.e. 01.01.2010.

Learned counsel for the respondents on the other hand submits that the petitioner was issued a charge-sheet and the disciplinary proceedings

were pending against the petitioner, when the petitioner become eligible for the grant of second ACP on 01.01.2010 and it was only after the disciplinary proceedings came to an end and the petitioner was found guilty of the allegations and imposed punishment, the grant of second ACP was considered and the same already been released to the petitioner on 01.4.2013 i.e. prospectively, hence, the benefit of granting the second ACP from 01.01.2010 as being asked by the petitioner could not be allowed.

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

It is a settled principle of law that where the disciplinary proceedings are pending against an employee, the employee cannot be promoted. The benefit of ACP which an employee is given is only due to the fact the employee is eligible for promotion but due to the non-availability of the post in the promotional cadre, the employee is stagnating in the feeding cadre.

In the present case, once on 01.01.2010 when the petitioner become eligible for the grant of benefit of ACP due to non-promotion, on completion of ten years of service, there were disciplinary proceedings pending against him, hence as, no promotion could have been given to the petitioner during the pendency of a disciplinary proceedings benefit of ACP could not have been allowed.

Even otherwise, the petitioner has been held guilty in the disciplinary proceedings and imposed punishment. That being the factual position, the petitioner could have only been granted the benefit of ACP, considering the nature of punishment imposed upon the petitioner, the benefit could have only been given prospectively, hence, in the given facts and circumstances of the present case when the petitioner has already been

given the benefit of second ACP prospectively after conclusion of the disciplinary proceedings initiated against the petitioner by the respondents-department, the claim of the grant of second ACP with retrospective effect is contrary to the service rules and the settled principle of law, no ground is made out to interfere in the present case, hence the present case stands dismissed.

Pending civil miscellaneous application, if any, shall also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

07.12.2023
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<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>