

CWP-21975-2017

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

(209)

CWP-21975-2017

DATE OF DECISION:- 10.04.2023

RAM KISHAN

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Gaurav Bakshi, Advocate
for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana
for the respondents.

SUVIR SEHGAL, J. (ORAL)

By way of present petition, petitioner is seeking quashing of order dated 20.04.2017, Annexure P-1, passed by respondent No.2, whereby claim for refixation of pay and consequent pension at par with his junior has been declined.

Pleaded case of the petitioner is that he was appointed as a Learner Binder on 27.12.1974 and promoted to the post of Press Daftri on 19.12.1975. He was further promoted as Binder on 16.11.1977 and retired from service in the year 2010. He approached this Court by filing CWP-16045-2013, claiming that he is entitled to third ACP at par with his junior. Writ petition was disposed of by this Court vide Annexure P-2, granting liberty to him to challenge order, Annexure P-1, which had been passed during its pendency. Said order is being impugned herein.

Upon notice, writ petition has been contested by the respondents by filing a written statement to which the petitioner has filed a replication.

Counsel for the petitioner submits that although petitioner was granted promotion from the post of Press Daftri to Binder, but it did not involve any financial upgradation as pay scale of both the posts was same. He submits that despite the petitioner being senior, his junior was drawing more pay than him. By making a reference to instructions dated 23.11.2006 and 06.02.2007, Annexures P-4 and P-3, respectively, counsel urges that being senior, he is entitled to stepping up of pay at par with his junior.

Per contra, State counsel submits that the petitioner has been granted all the due benefits. Reference has been made by him to Rule 7 (4) of Haryana Civil Services (Assured Career Progression) Rules, 2008, for short “the ACP Rules, 2008”, to argue that he is not entitled to any further financial upgradation.

I have heard counsel for the parties and considered their respective submissions.

In the counter filed by the respondents, a specific stand has been taken that as the functional pay scale of the petitioner on the promotional post of Binder, which he was holding on the coming into force of the pay revision Rules and the ACP Rules, 2008, was less, his pay scale was revised from Rs.950-1400 to Rs.3050-4350, which was higher than the prescribed ACP scales. Petitioner was granted first ACP and second ACP scale of Rs.4000-6000 and Rs.5000-7850 by way of stepping up at par with his junior w.e.f. 01.01.1996 and 17.08.1998 in view of the judgment of the Supreme Court as well as the instructions issued by the Government of Haryana. After the revision of pay scale w.e.f. 01.01.2006, his pay was fixed in the pay band of Rs.5200-20200 with Grade Pay of Rs.3200/-. As such the petitioner availed three financial upgradations in his service career. Reference at this stage deserves to be made to Rule 7 (4) of the ACP Rules, 2008, which provides thus:-

“(4) In case of a Government servant who gets promoted, he will be considered for the next ACP grade pay after he completes 10 years of regular satisfactory service in the promotional post without any financial upgradation and will be entitled to the next ACP grade pay with reference to the grade pay of the promotional post he holds;

Provided that a government servant shall not be entitled to avail ACP upgradation if, he has already availed of three financial upgradations of any kind in his career.”

This proviso came up for interpretation before this Court in *State of Haryana and others Versus Devraj*, 2013(2) RSJ 643, wherein it has been held that benefit of stepping up is not admissible to a promotee if he has already got three financial upgradations, during his service tenure.

As the petitioner has availed three financial upgradations in the form of promotions as well as ACPs, he is debarred from raising any further claim.

In view of the above discussion, there is no merit in the petition, which is hereby dismissed.

10.04.2023
Kamal

(SUVIR SEHGAL)
JUDGE

Whether speaking/ reasoned	Yes/ No
Whether Reportable	Yes/ No