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2023:PHHC:166537

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-24965-2017
DECIDED ON: 12th JULY, 2023

HOSHIAR SINGH

PETITIONER

VERSUS

UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND ANOTHER

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Saurabh Dalal, Advocate
for the petitioner.

Mr. Nitin Kaushal, Advocate
for the respondents.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Article 226 of the Constitution of India has been invoked for issuance of a writ in the nature of *Mandamus* to direct the respondents to grant ACPs due to the petitioner at the specified periods of service.

2. Brief facts of the case are that the petitioner was appointed as Shift Attendant with the respondent-Nigam on 27.02.1973. He was promoted to the post of Assistant Sub-Station Attendant on 26.05.1973, thereafter, promoted as Sub-Station Attendant on 28.07.1984. He retired from service on attaining the age of superannuation on 31.03.2010 after serving the respondent-Nigam for a period of 37 years.

3. Mr. Saurabh Dalal, Advocate for the petitioner has contended that the petitioner remained stagnant at the post of Sub-Station Assistant for 19 years 4 months before superannuation without any benefit of ACP as per the orders of this Court and guidelines issued by the Government. It is submitted on behalf of the petitioner that he had been wrongfully denied the lawful benefit of ACP scale and has been forced to run from pillar to post for the benefit.

4. Mr. Nitin Kaushal, Advocate for the respondents has contended that the petitioner was recruited as Shift Attendant on 27.02.1973 and thereafter, promoted to the post of Assistant Sub-Station Attendant on 26.05.1973 against a vacant post in next higher pay scale. It is further contended that the petitioner was further promoted to the post of Sub-Station Attendant on 28.07.1984 in the next higher pay scale and superannuated from the post of Junior Engineer on 31.03.2010 on attaining the age of superannuation.

5. Heard learned counsel for the parties.

6. As per para 5 (2) of ACP rules 1996 issued vide notification dated 27.02.1998, the eligibility for the ACP scale has been defined as under:-

"5. Eligibility for Grant of ACP Scales:

(1) Every Board employee who after a regular satisfactory service for a minimum period of 10 years, has not got any financial upgradation in terms of grant of a pay scale higher than the functional pay scale prescribed for the post as on 31.12.1995, on which he was recruited as direct recruited fresh entrant:-

(a) either as a consequence of his functional promotion in the hierarchy, or

(b) as a consequence of the revision of pay scale for the same post, or

(c) as a consequence of any other event through which the functional pay scale of the post has been upgraded, with respect of the functional pay scale prescribed for the post as on 31.12.1995, shall for the purposes of drawal of pay, be eligible for placement into the First ACP scale with reference to him.

(2) Every Board employee who, after a regular satisfactory service for a minimum period of 20 years, has not got more than one financial upgradation in terms of grant of pay scale higher than the functional pay scale prescribed for the post as on 31.12.1995 on which he was recruited as a direct recruited fresh entrant:-

(a) either as a consequence of his functional promotion in the hierarchy, or

(b) as a consequence of the revision of pay scale for the same post, or

(c) as a consequence of any other event through which the functional pay scale of the post has been upgraded, with respect of the functional pay scale prescribed for the post as on 31.12.1995, shall for the purposes of drawal of pay, be eligible for placement into the Second ACP scale with reference to the functional pay scale applicable to him;

Provided that grant of ACP scale shall also be considered financial upgradation for the purposes of this para."

7. The case of the petitioner is covered under the ACP Scheme of 1996, which provides for the grant of two financial upgradations to an employee during his service tenure. The petitioner had been promoted thrice in his service and also received the benefit of higher pay scales corresponding with the promotional posts. Firstly the petitioner was promoted to the post of Assistant Sub-Station Attendant on 26.05.1973, secondly, he was promoted to the post of Sub-Station Attendant on 28.07.1984 and thirdly, he was promoted as Junior Engineer on 21.11.2003 and retired as such on attaining the age of superannuation on 31.03.2010.

8. Accordingly, the petitioner is not entitled to any benefits under the ACP Scheme, which by its very nature is applicable to the cases of stagnation in service. Since the petitioner was promoted thrice, there was

no service stagnation and thus, the claim of the petitioner is baseless.

9. In view of discussions made hereinabove, this Court does not find any merit in the present petition and as such the same is dismissed with no order as to costs.

(SANDEEP MOUDGIL)
JUDGE

12th JULY, 2023
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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |