

CWP-2535-2017

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(104)

CWP-2535-2017
DATE OF DECISION:- 23.03.2023

INDU BALA

...PETITIONER

VERSUS

STATE OF HARYANA AND ANR.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ashwarya Bajaj, Advocate for
Mr. Saurabh Bajaj, Advocate for the petitioner.

Mr. Harish Nain, Additional Advocate General, Haryana
for the respondents.

SUVIR SEHGAL, J. (ORAL)

Instant petition has been filed seeking issuance of a writ in the nature of certiorari for quashing orders dated 04.10.2010 and 09.12.2010, Annexures P-4 and P-5, respectively, whereby petitioner's monthly pay band has been reduced from Rs.15,300/- to Rs.14,900/- and Grade Pay has been reduced from Rs.4,800/- to Rs.4,600/- per month w.e.f. 28.12.2017. Petitioner has sought restoration of the pay and payment of arrears along with interest.

Petitioner joined service as a staff nurse on 16.05.1981 and her services were regularized on 24.03.1983 in the Health Department, Government of Haryana. By order dated 10.02.2004, petitioner was granted Assured Career Progression (ACP) w.e.f. 01.06.2003, which has been withdrawn by orders impugned herein and her pay has been reduced.

Counsel for the petitioner has contended that the impugned orders have been passed without issuing any prior notice or hearing the petitioner and that too with a retrospective effect. By placing reliance upon the judgment of a Co-ordinate Bench of this Court in *Vijay Singh Versus State of Haryana and others*, Law Finder Doc ID 246489, counsel asserts that there is no justification in withdrawing the ACP benefit on the ground that subsequently the petitioner has forgone promotion. Countering his submissions, State counsel, besides opposing the petition on the ground of delay and laches, has argued that Rule 14 of the Haryana Civil Services (Assured Career Progression) Rules, 2008, which came into force w.e.f. 01.01.2006 provides that once the petitioner has foregone promotion, she is dis-entitled to benefit of higher pay scale. He has placed reliance upon the judgments of the Division Benches of this Court in *Shakuntla Devi Versus State of Haryana*, 2003 (4) SLR 414 and *LPA No. 322 of 2018 titled as Surender Kumari and others Versus State of Haryana and another*, decided on 28.02.2018 to support his argument.

Having considered the submissions made by counsel for the parties, but without examining the question of entitlement of the petitioner to the ACP Scales, this Court is of opinion that the impugned orders deserve to be set aside on the short ground that the petitioner has not been given any show cause notice prior to the impugned action. No material has been placed on the record nor it is the stand of the respondents that action oriented notice preceded the impugned steps. By virtue of the orders under challenge, petitioner has been visited with adverse monetary consequences with retrospective effect. She should

have been given a notice and provided with an opportunity to explain before the proposed move. Failure to do so has resulted in infraction of principles of natural justice and the impugned orders therefore, cannot be sustained.

For the afore-going reasons, impugned orders, Annexures P-4 and P-5, are set aside. ACP benefit granted to the petitioner by virtue of order dated 10.02.2004 is restored. However, the payment of arrears is restricted to a period of 38 months prior to the filing of the petition. Payment of arrears alongwith interest @ 6% per annum be made within a period of four months. Liberty is granted to the State to proceed in accordance with law.

Writ petition is disposed of in the above terms.

(SUVIR SEHGAL)
JUDGE

23.03.2023
Kamal

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