

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

**CWP-8417-2016 (O&M)
Date of Decision: 22.03.2023**

CHANDIGARH TRANSPORT UNDERTAKING

.. Petitioner

Vs.

PRESIDING OFFICER LABOUR COURT, CHD & ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Prateek Mahajan, Advocate for the petitioner.

Mr. Amit Kaith, Advocate
for respondent No.2.

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Manoj Bajaj, J. (Oral)

Petitioner-management has filed this writ petition under Article 226 Constitution of India seeking a writ of Certiorari for quashing of impugned award dated 14.07.2015 (Annexure P-3) passed by respondent No.1-Presiding Officer, Labour Court, Chandigarh, whereby the benefit of Assured Career Progression Grade to workman-respondent No.2 upon completion of his 24 years of service has been allowed with further direction to refix his pay and pension.

Learned counsel for the petitioner has argued that the workman had joined his service as Driver in 1975, who upon attaining the age of superannuation retired on 31.08.2004 and during his service period, he was granted the benefits of first and second Assured Career Progression Grade upon completion of 8 years and 16 years service respectively. However, since the workman was not eligible for the third assured career progression

benefit, therefore, the same was rejected through order dated 07.01.2005 on the ground that he does not meet the required standards. According to him, for being eligible for this benefit an employee must have at least half of ACR's as good, whereas the respondent-workman was having 17 annual confidential reports as average, out of total 25 reports. Learned counsel has further argued that the claim was never raised by the respondent No.2-workman in time, who claimed the benefit after 7 years of his retirement through demand notice dated 24.03.2011, and the labour Court while ignoring the material evidence on record proceeded to reject the defence of the petitioner and allowed his claim by granting him the benefit. He prays that the impugned award be set aside.

The prayer is opposed by learned counsel for the workman, who has argued that since the benefit of ACP was given to other similarly situated employees through award dated 12.01.2010 (Ex. W-2) in IDR No.260 of 2005, therefore, the labour Court accepted the claim of respondent No.2 also. He submits that during the pendency of the writ petition, the impugned award stands implemented by the petitioner-management and as a consequence of this benefit, the monthly pension of the workman was enhanced by approximately Rs.150/-. According to him, the benefit claimed by workman is recurring, therefore, the issue of delay raised by the petitioner pales into insignificance, therefore, the impugned award does not warrant any interference.

Upon hearing the learned counsel for the parties and considering the above background, this Court finds that the petitioner had preferred this writ petition to challenge the award dated 14.07.2015, wherein the following relief is given to the workman:

“Further as pointed out by learned representative for workers' union, the then Presiding Officer of this Court vide award dated 12.01.2010 Exhibit 'W2' IDR No.260 of 2005 had directed the management to grant the assured career progression grade to similarly situated workmen and this fact has also not been controverted by management and has not been argued by learned Law Officer for the management that the case of the present workman is on different footings then to those who were granted relief by my learned Predecessor. Cumulative effect of my above discussion is that since the average annual confidential reports were not conveyed to the workman the same cannot be used against him as such he has been wrongly denied the benefit of assured career progression grade on completion of 24 years of service. In the light of discussion made above, authorities relied upon and award dated 12.01.2010 passed by the then Presiding Officer of this Court, the demand raised demand notice dated 24.03.2011 by the workers' union is genuine and justified as such the management is directed to grant assured career progression grade to the workman after completion 24 years of service and refix the pay & of the workman and to release the consequential benefits to the workman thereof. This issue is decided in favour of the workers' union and against the management.”

During the course of hearing, it is also not disputed by Mr.

Mahajan, learned counsel for the petitioner that the order dated 07.01.2005 (Annexure P-5) rejecting the workman's representation denying him the relief of ACP was not brought on record by way of an evidence.

Concededly, the notice of motion in the writ petition was issued on 13.07.2016 only to the limited extent that *“whether respondent No.2 is entitled for upgradation of his average remarks in various confidential reports”*, and at that stage, no interim relief was granted in favour of the petitioner. Further, the relief relating to upgradation of ACR was neither claimed by the workman in his claim statement nor the upgradation of his ACRs was ordered by the labour Court. The order dated 13.07.2016 makes it abundantly clear that the challenge to above noticed award dated 14.07.2015 by the labour Court in favour of the workman was given up by the petitioner, and concededly, the award has also been implemented vide

decision dated 28.07.2016, therefore, at this stage, this Court is not inclined to enter into the merits of the impugned award.

Resultantly, no case is made out for exercise of extra ordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

22.03.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No