

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

206

CWP-9342-2016 (O&M)

Date of Decision :-04.10.2023

**Mohinder Kumar and others**

**...Petitioners**

**Versus**

**State of Haryana and others**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. K.S. Banyana, Advocate for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

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**Harsimran Singh Sethi, J. (Oral)**

The petitioners, who are the legal heirs of one Rameshwar Dutt have filed the present writ petition challenging the orders dated 26.05.2010, 21.10.2011 and 10.06.2014 (Annexures P/5, P/9 and P/11 respectively) passed by the respondent-department declining their claim for the grant of benefit of benefit of 3<sup>rd</sup> ACP to Rameshwar Dutt.

Learned counsel for the petitioners submits that Rameshwar Dutt, who was entitled for the grant of benefit of 3<sup>rd</sup> ACP has wrongly been declined the said benefit by the respondents while passing impugned order dated 10.06.2014 (Annexure P/11) hence, the impugned order may kindly be set aside.

Learned counsel for the respondents submits that a detailed order has been passed by the respondent-department in pursuance to the

directions given by this Court wherein, it has been clearly mentioned that Rameshwar Dutt had already availed three promotions along with financial upgradation, details of which has been mentioned in the impugned order itself hence, as per the condition of the rules governing the service qua the grant of benefit of ACP, no benefit of ACP is admissible to an employee in case, the said employee had already got three financial upgradation and in the present case, Rameshwar Dutt had already availed three financial upgradation hence, the claim of the petitioners is liable to be rejected..

Learned counsel for the petitioners has not been able to dispute the fact that keeping in view the service record of the Rameshwar Dutt while he was in service, he had already been granted three financial upgradation.

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

In the present petition, the claim of the petitioners is for the grant of benefit of 3<sup>rd</sup> ACP to Rameshwar Dutt. It is a conceded position that as per the terms and conditions of the rules governing the service for the grant of ACP, an employee can only get the benefit of 3<sup>rd</sup> ACP in case he/she has not already got three financial upgradation in his/her service career. In the present petition, it is a conceded position that Rameshwar Dutt had already got three financial upgradation in his service carrier, which data has been mentioned in the impugned order dated 10.06.2014 (Annexure P/11). That being so, once Rameshwar Dutt had already got required numbers of financial upgradation in his service carrier as per the rules governing the service qua the grant of ACP, no such claim for the grant of benefit of 3<sup>rd</sup> ACP can be raised by the petitioners.

At this stage, learned counsel for the petitioners submits that certain other employees have been granted the said benefit despite the fact that they got three financial upgradation in their service career.

It is a settled principle of law that there should not be a negative discrimination and in case anybody is granted the benefit for which he/she is not entitled, the said benefit cannot be claimed by others as a matter of right and petitioners have to stand on their own legs to claim a benefit keeping in view the rules governing the service.

Keeping in view the facts and circumstances noticed hereinabove, the petitioners cannot be granted the benefit of grant of 3<sup>rd</sup> ACP keeping in view the fact that Rameshwar Dutt had already been granted three financial upgradation in his service career. Hence, no interference is called for by this Court and the present petition is accordingly dismissed.

Civil miscellaneous application, if any, is also dismissed.

**October 04, 2023**

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**(HARSIMRAN SINGH SETHI)**

**JUDGE**

*Whether speaking/reasoned : Yes/No*

*Whether reportable : Yes/No*