

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(221)

CWP-5823-2018

Date of Decision : September 12, 2023

Roop Singh

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gurinder Pal Singh, Advocate, for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance of the petitioner is that though the petitioner has been granted retrospective promotion in the cadre of Statistical Assistant but the benefit of ACP granted upon retrospective promotion has been withdrawn on the ground that the petitioner has not actually worked on the post of Statistical Assistant.
2. Certain facts needs to be mentioned for the correct appreciation of the issue in hand.
3. The petitioner was appointed as a Clerk on adhoc basis on 22.08.1967. Thereafter, he was appointed on regular basis upon recommendation of the Subordinate Service Selection Board w.e.f. 02.04.1970. The petitioner was further promoted as Junior Auditor on 16.04.1984 and was further promoted as Statistical Assistant on 01.02.2002.

While the petitioner was working as Junior Assistant, one Om Parkash, who was otherwise junior to the petitioner got promotion in preference to the petitioner on the basis of the reservation. Upon promotion of the petitioner to the post of Statistical Assistant, on 01.02.2002, the petitioner raised a claim that as he has become senior to Om Parkash, hence, he is entitled for the benefits which Om Parkash is getting including the benefit of ACP by counting the service from the date the petitioner has been granted promotion to the post of Statistical Assistant.

4. Upon notice of motion, the respondents have filed the reply wherein, it has been stated that after the petitioner was promoted in the year 2002 as a Statistical Assistant with retrospective effect, he has been treated senior to Om Parkash and his pay has already been stepped up equivalent to Om Parkash as he was getting in the year 2002, therefore, once the benefit of step up of pay has already been granted to the petitioner equivalent to Om Parkash, no further benefit is liable to be extended to him as the petitioner stood on the same footing as Om Parkash.

5. Learned counsel for the petitioner submits that after the grant of step-up in the year 2002, Om Parkash was granted ACP in the year 2004 after completion 10 years of service for which the petitioner was also entitled for though the said benefit was initially granted by taking into account the total service which the petitioner has rendered in the cadre of Statistical Assistant keeping in view the retrospective promotion but the benefit of ACP was withdrawn on the ground that the petitioner has not actually worked on the post of Statistical Assistant from 1994 to 2002, which is totally arbitrary and illegal and contrary to the settled principle of law.

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

7. It is a conceded position that the petitioner was superseded by a reserved category candidate namely Om Parkash in the year 1994 for the grant of promotion to the post of Statistical Assistant. It was only in the year 2002 the petitioner was granted promotion to the post of Statistical Assistant and upon re-gaining the seniority, the benefit of retrospective promotion to the post of Statistical Assistant was also extended to the petitioner from the year 1994.

8. With regard to Om Parkash, in the year 2004, he was granted the benefit of ACP as he had completed 10 years of service. The same benefit was also extended to the petitioner being senior to Om Parkash but later on, the said benefit has been withdrawn on the ground that the petitioner is only promoted as Statistical Assistant in the year 2002 and only 10 years service from 2002 onwards will entitle the petitioner the benefit of ACP, which interpretation of the respondents is totally arbitrary and illegal.

9. Once the petitioner has been treated senior to Om Parkash and granted retrospective promotion to the post of Statistical Assistant from the year 1994 i.e. the date when Om Parkash was granted the same, the said promotion from the year 1994 is to be treated for all intents and purposes including for the grant of ACP also otherwise, there will be no useful purpose for the retrospective promotion at all, hence, the withdrawal of the benefit of ACP from the petitioner was on wrong premise and the same cannot be upheld.

10. Keeping in view the above, the impugned order dated 08.02.2018 (Annexure P-7) withdrawing the benefit of ACP to the petitioner is set aside. As the operation of the impugned order had already

been stayed while issuing notice of motion and the petitioner has continue to get the benefit, no further are orders are required to be passed.

11. The present petition is allowed in above terms.

September 12, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes