



CWP-3742-2022

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

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CWP-3742-2022

Date of Decision: 03.12.2024

Mahabir Singh

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Sajjan Singh, Advocate for the petitioner

Mr. Harish Rathee, Sr. DAG, Haryana

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed, *inter alia*, seeking a direction to the respondents to release the benefits of 3rd Assured Career Progression (ACP) grade with effect from 01.02.2018, arrears of 2nd ACP grade from 01.02.2014 to 31.01.2018, along with consequential benefits.

2. Facts of the case in brief are, on 07.01.1994 the petitioner joined service as Social Science Master (now called TGT Social Studies) in the respondent Department and was posted at Government High School, Sehlang, Tehsil Kanina, District Mahendergarh. After rendering ten years' service, he was given the benefit of 1st ACP grade with effect from 01.02.2004. The respondents implemented 6th Pay Commission recommendations for its employees with effect from 01.01.2006, and the petitioner's pay was also revised as per the new pay structure. However, pay of some of the petitioner's



juniors, namely, Dharmbir Sharma, Sita Ram, Kundan Lal and Ved Parkash, was fixed at a higher stage as compared to his pay. The anomaly was however corrected, and the petitioner's pay was stepped up at par with that of his juniors at ₹19,760 (14,260+4800 Grade Pay) with effect from 01.07.2006, vide pay fixation order dated 11.12.2009.

2.1. Later, the petitioner was promoted as Elementary School Headmaster on 13.06.2013, Annexure P-7, and joined as such at Government High School, Bal Road, District Charkhi Dadri, on 27.06.2013. The benefit of step-up of pay given to the petitioner with effect from 01.07.2006, was withdrawn vide office order dated 18.12.2014, Annexure P-8, though it was restored and his pay was re-fixed vide office order dated 04.04.2018, Annexure P-11. However, after re-fixation salary was paid only up to two months and thereafter the respondents stopped payment without citing any reason, though the office order dated 04.04.2018 was never withdrawn by them.

2.2. The petitioner's request to release salary in terms of the aforesaid office order remained unsuccessful. Nevertheless, he kept on working in the Department and was given 3rd ACP grade also with effect from 01.02.2018, vide office order dated 1/3.10.2022. In terms thereof, he was granted salary only for September, 2022 and March, 2023, as established on record by way of pay slip, Annexure P-18.

3. In this factual background, learned counsel for the petitioner has argued that the petitioner is entitled to the claimed relief, as the orders giving him the benefit of 2nd and 3rd ACP grades have not been modified or withdrawn by the respondents to date. He has been denied the rightful due in terms thereof without citing any reason or passing any order which is arbitrary and illegal.



4. *Per contra*, learned State counsel has referred to the written statement filed on behalf of respondents no.1 to 4 to contend that nothing was found in the petitioner's service record to establish that he had submitted any comparative pay statement of junior employees while availing the benefit of step-up of pay. The benefit was not given in accordance with law, and excess payment was wrongly released to him. Therefore, notices were issued to him by Headmaster, Government High School, Charkhi Dadri, seeking explanation about recovery of excess payment from 01.07.2006 to 30.11.2014. Learned State counsel has further contended that the benefit of step-up of pay was restored to the petitioner vide office order dated 04.04.2018; however, prior thereto his case was required to be sent to the Finance Department for approval in terms of Rule 58 of the Haryana Civil Services (Pay) Rules, 2016 (for short '2016 Rules'), which was not done. At the same time, he does not dispute the fact that neither the office order dated 04.04.2018 granting stepping-up of pay and 2nd ACP grade has been withdrawn/cancelled, nor has the subsequent office order dated 1/3.10.2022 giving the benefit of 3rd ACP grade been withdrawn/cancelled, nor has any recovery been affected from the petitioner.

5. Heard.

6. As per facts apparent on record, the petitioner was given benefit of stepping-up of pay equal to that of the juniors with effect from 01.07.2006, as also of 2nd ACP grade pay with effect from 01.02.2014 vide office order dated 04.04.2018. He has also been given the benefit of 3rd ACP grade pay vide office order dated 1/3.10.2022. It also remains undisputed that these orders have not been withdrawn/cancelled. The only ground pleaded against the petitioner's claim for release of benefits in terms of these orders is that office order, dated



in terms of Rule 58 of 2016 Rules. This is unsustainable in view of the fact that subsequent thereto the petitioner has already been given 3rd ACP grade vide office order dated 1/3.10.2022. Had the grant of 2nd ACP grade not been proper, the 3rd ACP grade could not have been given to the petitioner which has already been done. Resultantly, the respondents cannot be permitted to object to grant of 2nd ACP grade to the petitioner, nor can the due service benefits be denied on that ground. Additionally, once the office orders have been passed by the respondents giving the benefits of 2nd and 3rd ACP grades to the petitioner, there is no reason why the same should not be given effect to. No justifiable reason has been cited for not doing so.

7. In view thereof, the writ petition is allowed, and the respondents are directed to release all outstanding benefits, including arrears of salary, for 2nd and 3rd ACP grades to the petitioner from the respective due dates along with all consequential benefits, including re-fixation of pensionary benefits. The arrears of salary as well as pensionary benefits shall be released to him with interest at the rate of six per cent per annum from the due date to the date of payment. These directions are to be carried out by respondents no.1 to 4 within four weeks of receiving a certified copy of this order.

(TRIBHUVAN DAHIYA)
JUDGE

03.12.2024
Payal

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No