



CWP-5477-2004(O&M)

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

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CWP-5477-2004 (O&M)

Date of decision: 05.09.2024

Anit Kumar and others

...Petitioners

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : None for the petitioners

Mr. Tapan Kumar, DAG Haryana

AMAN CHAUDHARY, J. (ORAL)

1. The prayer made in the present petition is for quashing the Audit note dated 04.10.2001, whereby the benefit of protection of pay scale of the petitioners has been withdrawn and further directing the respondents to allow them to draw their present grade and salary, as granted at the time of absorption, which included the 1st and 2nd ACPs, taking into account the length of service rendered in the Municipal Committees and not effect recovery of the excess amount as per order dated 05.11.2003.

2. The Division Bench vide order dated 01.04.2004 had stayed the recovery.

3. Evidently, the pay of the petitioners was protected, when they were absorbed, which was, in **State of Haryana and Another vs. Deepak Sood and Others¹**, held by Hon'ble the Supreme Court to include grant of ACP as well. The

¹ Civil Appeal No.4446 of 2008, decided on 15.07.2008.



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relevant para whereof reads thus:

“Therefore, in the series of judgments given by this Court the view has been taken that in case of a transfer/absorption from one department to another or from public sector to State though the benefit of the seniority may be denied to the incumbent but not for other benefits like pay fixation and for the pensionary benefits. Therefore, when the benefit of past service rendered in the parent department was given for fixation of pay and pensionary benefits, there is no reason why the past service should not be counted for grant of ACP Grade. Consequently, we are of the view that the view taken by the Division Bench of the High Court in the impugned judgment and order is correct and there is no ground to interfere in this appeal. Consequently, this appeal is dismissed but with no order as to costs.”

4. Learned State counsel despite his best efforts has been unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.

5. In wake of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Deepak Sood**(supra).

(AMAN CHAUDHARY)
JUDGE

05.09.2024

Hemant

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