

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

CWP-7314-2024
Date of Decision: 01.04.2024

Parkash Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Krishan Kumar Dadwal, Advocate for the petitioner
Mr. Aman Dhir, Deputy Advocate General, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 02.02.2023 (Annexure P-10) whereby representation dated 23.12.2022 (Annexure P-7) filed by him has been rejected.
2. This is second round of litigation. The prime grouse of the petitioner is that in his ACR of 2014-15, Grade 'Average' was recorded. This resulted in denial of further promotion(s) to him.
3. The petitioner filed *CWP No.5139 of 2018* before this Court seeking direction to respondents to consider him for promotion and ignore ACR of 2014-15 because it was never communicated to him. This Court vide order dated 22.12.2022 (Annexure P-6) disposed of said petition with the following directions:-

“Following the dictum laid down by the Apex Court, it is clear that the average report relating to the period 01.04.2014 to 31.03.2015 which clearly had an adverse effect insofar as consideration of the petitioner for the purpose of promotion to the higher post of Inspector of Police, was required to be conveyed to him.

9. *The present petition was filed in the year 2018 and at that time, petitioner was of 57 years of age. So it is presumed that by now, he may have been retired. If the petitioner makes a representation for upgradation of his “Average” entry recorded for the year 2014-15 and the same is allowed, it may benefit in his pension and get some arrears as well.*

10. *Consequently, the present writ petition is disposed of with a direction that in case the petitioner makes a representation against the entry recorded for the year 2014-15, within a period of two months on receipt of certified copy of this order, and on consideration of his representation, if his Annual Confidential Report is upgraded, he shall be considered for promotion retrospectively by the Departmental Promotion Committee within three months thereafter and if he gets selected for promotion retrospectively, he shall be given the higher pension with arrears of pay and interest @ 8% per annum till the date of payment.”*

4. The petitioner filed representation dated 23.12.2022 (Annexure P-7) in terms of afore-stated order. The respondent has passed impugned order without considering question of upgradation of his ACR.

5. Notice of motion.

6. Mr. Aman Dhir, Deputy Advocate General, Punjab, who on advance notice is present in Court, accepts notice on behalf of the respondents. With the consent of both sides, the captioned petition is taken up for final adjudication.

7. Mr. Aman Dhir, learned State counsel fairly concedes that claim of the petitioner for promotion has been rejected on the basis of ACR(s) which included ACR of 2014-15. This Court had directed to consider question of upgradation of said ACR, however, respondent while passing the impugned order has not considered said question.

8. In view of conceded facts and order dated 22.12.2022 (Annexure P-6) of this Court in *CWP No.5139 of 2018*, the respondents are hereby directed to pass a fresh order after considering directions of this Court passed in CWP No.5139 of 2018. Let the needful be done within three months from today.

9. Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

01.04.2024
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>