

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-2230-2023 (O&M)
Date of decision:- 27.02.2024

Rajinder Paul
...Appellant(s)

Versus

State of Haryana and others
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA, ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Mr. Hari Krishan Sharma, Advocate,
for the appellant.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

* * * *

G.S. SANDHAWALIA, A.C.J. (ORAL)

CM-5582-LPA-2023

For the reasons mentioned therein, the delay of 356 days in re-
filing the appeal is condoned.

The application stands disposed of.

LPA-2230-2023

1. Consideration sought in the present appeal is to the order dated 30.03.2022 passed by the learned Single Judge in CWP-24060-2015, whereby the claim for benefit of Assured Career Progression Scheme was rejected on the ground that the appellant-writ petitioner did not have the minimum period of five years as required for the grant of the same.

2. It was noticed that the appellant-writ petitioner was given charge of the post of Deputy Superintendent of Police against the post available for the direct recruits on 22.12.2005 and the regular promotion had been granted

only with effect from 28.12.2006. Apparently, he retired on 31.01.2011 as per the written statement filed on behalf of respondent No. 1 and as per his own case. In such circumstances, the benefit has been denied by the learned Single Judge while placing reliance upon the judgement of the Apex Court in ***State of Haryana Vs Haryana Veterinary and A.H.T.S. Association*** 2000(8) SCC 4. The learned Single Judge has recorded that the grant of benefit is to mitigate the hardship of stagnation and the minimum period has to be completed from the date of regular promotion. Thus, no fault can be found with the view taken by the learned Single Judge.

3. It is also to be noticed that apparently the appellant-writ petitioner had retired on 31.01.2011. He did not raise any grievance as such during his period of service. The first legal notice was served on 31.07.2015 (Annexure P-2) and thereafter the writ came to be filed in November, 2015 which was duly contested as such by the State of Haryana. It is, thus, apparent that the claim was only raised at belated stage and even otherwise the reason given by the learned Single Judge and as objected to by the State of Haryana is on legal basis.

4. The argument as such raised that there were posts vacant and, therefore, he should have been promoted earlier cannot be accepted as there is no absolute right of promotion and it is only a right of consideration. It is for the respondents as such to see as to when the promotions have to be made. The writ petition is also bereft of any details as such regarding the fact that how long the respondents had not promoted the persons who were due for same and when the vacancies had arisen. In the absence of any categorical averments made as such and not raised before the learned Single Judge, the argument now being raised is not liable to be taken into consideration.

5. Resultantly, there is no merit in the appeal which stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

27.02.2024
Amodh Sharma

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