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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10831-2021(O&M)
Date of decision: 29.07.2024

Om Parkash

...Petitioner

VERSUS

Haryana Vidyut Prasaran Nigam Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Arihant Goyal, Advocate, for the petitioner.

Mr. Dhruv Walia, Advocate, for respondents No.2 to 5.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondents to grant the benefit of ACP to the petitioner as granted to the similarly situated persons especially in view of the judgment/order passed by this Court in CWP No.6225 of 2013, titled as '*Roshan Lal and others Versus Haryana Vidyut Prasaran Nigam Limited and others*', decided on 09.02.2016 (Annexure P-6) which has been upheld in LPA No.1430 of 2016 on 02.03.2017 (Annexure P-7), with a further prayer to issue a writ in the nature of *certiorari* for quashing the impugned order dated 07.04.2021 (Annexure P-13) and further to make the payment of arrears with interest.



2. Learned counsel appearing on behalf of the petitioner submitted that it is a case where the petitioner was appointed as ALM but thereafter a dispute arose with regard to the merit list and thereafter, some of the similarly situated persons namely, Roshan Lal and others filed a writ petition before this Court in CWP No.6225 of 2013 which was allowed vide Annexure P-6 on 09.02.2016. He submitted that in the aforesaid petition similar dispute was there with regard to the grant of ACP which was granted to those petitioners but which was thereafter withdrawn. The aforesaid action of the respondents was set aside and quashed and those petitioners who were similarly situated to the petitioner were granted the benefit of ACP w.e.f. 1997 and those petitioners are exactly similar and identical to that of the present petitioner. He submitted that even the aforesaid judgment Annexure P-6 was assailed by the respondents by filing a LPA No. 1430 of 2016 which was also dismissed vide Annexure P-7 on 02.03.2017.

3. Learned counsel submitted that once the position of law pertaining to the grant of ACP was decided by a Co-ordinate Bench of this Court and upheld in LPA, then the petitioner was also entitled on the same footing as that of the aforesaid petitioners of the aforesaid writ petition, even if the petitioner did not at that point of time had filed a petition. In this regard, he referred to a judgment of this Court in *Satbir Singh Versus State of Haryana, 2002(2) SCT 354* to contend that once similarly situated persons had come to the Court and have been granted relief, then it is the duty of the State to grant the similar relief to the similarly situated persons notwithstanding the fact that they were non-petitioners. He submitted that in this way, the petitioner being exactly at



parity with the aforesaid persons who have been granted relief may also be considered in this regard.

4. On the other hand, learned counsel appearing on behalf of the respondent-Nigam submitted that with regard to the aforesaid entitlement of the petitioner to be exactly at parity with the aforesaid Roshan Lal and others is concerned, the same is not in dispute and the petitioner is exactly at parity with the aforesaid persons but there is only one objection in the present case that there is a delay in filing of the present petition. The petitioner ought to have filed the petition earlier but he has chosen to file the petition in the year 2021 and therefore, the present petition is liable to be dismissed on the ground of delay.

5. I have heard the learned counsel for the parties.

6. On the proposition as to whether the petitioner is entitled for the aforesaid benefit of ACP w.e.f 2007 or not, the same has not been disputed by the learned counsel for the respondents. The petitioner is at parity with those petitioners who had approached this Court and filed a petition which was allowed and upheld in LPA is also not in dispute. During the course of arguments, the learned counsel for the petitioner has brought to the notice of this Court reply to the legal notice Annexure P-13 which was given by the Executive Engineer in which it has been so stated that so far as the grant of ACP to the petitioner Om Parkash is concerned, the same has not been denied by the department till date and is pending in view of the litigation pending before the High Court i.e. in the aforesaid Rakesh Kumar's case and rather he has also stated that the petitioner is similarly situated employee. This Court is of the considered view that once the respondents themselves admit that the



petitioner is similarly situated employee and his claim has been delayed only because of the pending litigation in the aforesaid Rakesh Kumar's case, then the petitioner cannot be non-suited on the ground of delay. This Court in ***Satbir Singh's case (Supra)*** held that when on a particular issue a judgment has been passed by this Court, then the mere fact that some of the similarly situated persons have not approached this Court by filing a petition would not mean that they should be denied the benefit and rather it should be rationalised. The relevant portion of the aforesaid judgment is reproduced as under:-

“19. Be that as it may, particularly in the afore-referred premises, we still feel that it is the bounden duty of the Court to issue the following directions to the State in the larger public interest and for proper administration of justice :-

(i) Wherever the rights of the parties have been settled by a judgment of the Court, the State has taken all remedies available to it in law against that judgment even upto the highest court of the land and the judgments has attained finality, then the State must accept the judgment and implement it in its true spirit and command. There is implicit obligation on the part or the State to grant same relief to other members of the cadre whose claim was based upon identical facts and points of law.

(ii) The State Government shall as expeditiously as possible in any case not later than four months re-act and respond to a legal notice/representation served upon it by any of its employees in redressal of his grievance/grant of relief, which has been granted to his co-employees similarly situated, in furtherance to the judgment of the Court. Unless, for reasons to be indicated in the reply, the State feels compelled to deny such relief. Needless to point out that denial must neither be evasive nor intended to circumvent the orders of the Court.

(iii) In the event such an employee is compelled to approach the court of law, whereupon the court awards interest and/or costs



while allowing such a petition, then the expenditure incurred by the State including the costs/interest paid in furtherance to the orders of the Court should be recovered from the erring officer(s).

(iv) The concerned quarters of the Government are expected to work out the details in furtherance to the above directions and issue pervasive but definite instructions to all its departments forthwith to ensure compliance”

7. In view of the aforesaid facts and circumstances, the present petition is allowed in the same terms as that of Annexure P-6.

(JASGURPREET SINGH PURI)
JUDGE

29.07.2024
rakesh

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