

CWP-14417-2020

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-14417-2020
Date of Decision: 13.02.2024

Bhupinder Kumar Petitioner

Versus

Haryana Vidyut Prasaran Nigam Ltd. (HVPNL) and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Mr. R.D. Bawa, Advocate and
Mr. Dipanshu Kapur, Advocate,
for the respondents.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* by 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 dated 09.02.2016 passed by this Court in CWP-6225-2013 vide Annexure P-5 which has been upheld in LPA-1430-2016 on 02.03.2017 (Annexure P-6) and further to pay the arrears of the aforesaid benefit along with interest.
2. Learned counsel for the petitioner submitted that the petitioner was granted appointment in the year 2009 w.e.f. 1997 as a consequence of a judgment passed by this Court vide Annexure P-1 in which it was directed that all the consequential benefits were to be given except for the back-

wages. Thereafter, the respondent-Department granted the ACP to some of the employees by treating their appointment from the year 1997 but later on the ACP was withdrawn. However, they filed a petition before this Court bearing CWP-6225-2013 which was allowed by this Court vide order dated 09.02.2016 (Annexure P-5) and a Co-ordinate Bench of this Court had quashed the order of withdrawal of the ACP by stating that it was bad in law. The aforesaid petition was assailed by the respondents-Department by filing LPA which was also dismissed vide Annexure P-6 and thereafter, even some of the other similarly situated employees have been granted the ACP by counting their service from 1997 vide Annexure P-7. He further submitted that so far as the present petitioner is concerned, he is exactly at parity with the aforesaid petitioners whose writ petition was decided vide Annexure P-5 and who have been granted the ACP vide Annexure P-7, but there is no justification as to why the petitioner has been declined the ACP till date despite the fact that a legal notice was served upon the respondents vide Annexure P-12 but no action has been taken in this regard and the case of the petitioner is squarely covered by the aforesaid judgment dated 09.02.2016 (Annexure P-5).

3. On the other hand, Mr. R.D. Bawa, learned counsel for the respondents stated that since the petitioner has filed a legal notice, the same will be considered and a conscious decision will be taken by the competent authority within a period of two months from today and also in the light of the aforesaid judgment (Annexure P-5) as so stated by the learned counsel for the petitioner.

4. In view of the aforesaid facts and circumstances, the present

petition is disposed of without expressing anything on the merits of the case, with a direction to respondent No.2/competent authority to consider and decide the legal notice issued by the petitioner vide Annexure P-12 by passing a well-reasoned speaking order within a period of two months from today and also in the light of the aforesaid judgments (Annexures P-5 & P-6) and the order dated 16.08.2017 (Annexure P-7).

5. Needless to say that in case the petitioner is found to be at parity with the aforesaid persons, who have been granted the benefit of the ACP, then the petitioner shall also be granted the aforesaid benefit within a period of two months with all the similar benefits.

6. Apart from the above, before deciding the aforesaid representation, the petitioner shall also be afforded an opportunity of hearing and thereafter, a speaking order shall be passed in accordance with law and the same shall be conveyed to the petitioner.

13.02.2024

(JASGURPREET SINGH PURI)
JUDGE

Bhumika

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |