



CWP-14504-2024
CWP-14536-2024

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-14504-2024
Date of decision: 01.07.2024

Ram Niwas
Versus
...Petitioner

State of Haryana and others
...Respondents

Krishna
Versus
CWP-14536-2024
...Petitioner

State of Haryana and others
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Raman Chawla, Advocate for the petitioners
Mr. Harish Nain, AAG, Haryana.

AMAN CHAUDHARY. J (Oral)

1. These cases involve similar issues and therefore, are being disposed of together by this common judgment.
2. The prayer made is for directing the respondents to consider the case of the petitioner in CWP-14504-2024 and deceased husband of the petitioner in 14536-2024, for 2nd and 3rd ACP due since 2006 and 2016.
3. Learned counsel for the petitioner submits that the ACP has not been granted to the employees on account of them not having cleared the Kanungo test. The relevant paras of **Ram Pal Patwari and others vs. State of Haryana and another¹**, wherein this very issue was dealt with and decided

¹ CWP-23074-2010, decided on 24.07.2015
HAMANT
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I attest to the accuracy and
integrity of this order/judgment



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in favour of the petitioners therein, against which the LPA-882-2017² filed by the State was dismissed, read thus:

“On perusal of the aforementioned instructions, it is clear that the stand of the State in not granting the Second and third ACP Scale, on the ground that the petitioners have not undergone the Kanungo test, falls flat on their face for the reason that similarly situated persons who have completed 10/20 years regular satisfactory service have been granted exemption in sitting for test and therefore, the petitioners are not required to undergo the test. The State has not been able to rebut the order dated 29.8.2012 (Annexure P-7) whereby it has been stated that two Patwaris have also been granted second and third ACP scale despite the fact that they have not cleared the Kanungo test, in essence, the said Patwaris have been granted benefits of the instructions dated 17.2.2003.

The State cannot discriminate amongst the same class of persons by taking aid of the rules *ibid*. There is no dispute to the fact that the petitioners were and are eligible for grant of Second and third ACP Scales as they have rendered statutory period of service of 20/30 years.

In view of the exemption granted, as per instructions dated 17.2.2003 and rules and the fact that similar persons have been granted the similar relief of ACP scales, a direction is issued to the State that Second and third ACP Scale as has been granted to other similarly situated persons vide Annexure P-7, be given to the petitioners within a period of three months from the date of receipt of certified copy of this order...”

4. In **Prithvi Singh vs. State of Haryana and others**³, similar relief was granted to the petitioner, who had also not passed the Kanungo test and an unsuccessful challenge was laid by the State to it by filing LPA⁴, it was observed and held thus:

“In the replication, the petitioner has placed on record judgment passed by this Court in the case of Ram Pal Patwari and others vs. State of Haryana and another (CWP No.23074 of 2010) decided on July 24, 2015. A similar question had come up for consideration in that

² State of Haryana and another vs. Rampal Patwari and others, dated 28.03.2023

³ CWP-10051-2013, decided on 27.04.2016

⁴ LPA-547-2019, decided on 13.03.2019



case. After completing 20 years of service, a claim was made to grant Second ACP. The stand of the State was that as per rule 5.3 (b) of Haryana Civil Services (Assured Career Progression) Rules, 1998 and 8 (b) of 2008 rules, the petitioners cannot be granted ACP scale until and unless they have not taken the test. A reference was made by the counsel for the petitioners to the order dated 29.8.2012, whereby similar persons working on the post of Patwari had been granted the first, second and third ACP scale despite they had not cleared the Kanungo test. It was held by this Court that the State cannot discriminate amongst the same class of persons by taking aid of the rules *ibid*. There was no dispute to the fact that the petitioners were and are eligible for grant of Second and third ACP scales as they have rendered statutory period of service of 20/30 years. In view of the exemption granted as per instructions dated 17.2.2003 and rules and the fact that similar persons have been granted the similar relief of ACP scales, the petition was allowed and a direction was issued to the State that Second and third ACP Scales as has been granted to other similar situated persons be given to the petitioners within a period of three months.

Counsel for the State has not been able to dispute that the judgment in the case of Ram Pal Patwari's case (*supra*) has been implemented by the State of Haryana. The case of the present petitioner is squarely covered by the above said judgment.

In view of all that has been discussed above, present petition is allowed and a direction is given to the respondents to grant the benefit of Second ACP to the petitioner as per the Instructions dated 17.2.2003, within a period of three months from the date of receipt of certified copy of this order.” (Emphasis supplied)

5. Whilst relying on **Ram Pal Patwari and others** (*supra*), this Court allowed the writ petition in the case of **Chander Parkash vs. State of Haryana and others**⁵, against which also the LPA-638-2024 came to be dismissed on 05.03.2024 and the said judgment has now been even implemented vide order dated 12.03.2024, granting the benefit of 2nd and 3rd ACP to the petitioner therein.



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6. Learned State counsel despite his best efforts, was unable to controvert the submissions made on behalf of the petitioners and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.
7. In view of the above, the present writ petitions are disposed of in terms of **Ram Pal Patwari and others, Prithvi Singh, and Chander Parkash** (supra).
8. A photocopy of this order be placed on the file of the connected case.

(AMAN CHAUDHARY)
JUDGE

01.07.2024
Hemant

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