



CWP-23690-2016 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CWP-23690-2016 (O&M)
Date of decision: 16.05.2024

Dr. Harsh Kumar Mahajan

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Krishan S. Dadwal, and
Ms. Neha Jain, Advocates for the petitioner

Mr. Arun Gupta, DAG, Punjab.

AMAN CHAUDHARY. J. (ORAL)

1. The present petition has been filed for quashing the communication dated 28.03.2014, Annexure P-2.

2. Learned counsel submits that the petitioner is entitled to benefits of ACP on completing 4, 9 and 14 years of service alongwith all consequential benefits, which have wrongly not been granted from due date, owing to them being mentioned incorrectly in letter dated 28.03.2014, Annexure P-2, on account of No Report Certificate, which otherwise has to be treated as good in terms of **Sarabjot Kaur vs. State of Punjab and others**, CWP-9545-2010, decided on 01.09.2011, rendered by relying on para 16 of the Full Bench judgment of this Court in **Kamal Kumar Gupta vs. State of Haryana and Others**, 1991 (1) SCT 57, wherein it was categorically held that non-recording of ACRs cannot be the reason of disadvantage and to grant ACP, which has been denied on technical grounds, there being special reports of non-availability of ACRs, the work and conduct of the official being satisfactory and nothing adverse against him. Even otherwise as held in **P. Sivanandi vs. Rajeev Kumar and others**, 2017(2) SCT

210, by Hon'ble the Supreme Court that the employee cannot be put to



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disadvantage on account of writing, reviewing of ACR by his superior officers, who were lax in discharge of their responsibility and thus delay of the same was beyond his control. He thus, at this stage, on instructions, submits that the petitioner would be satisfied, in case, the respondents are directed to decide the claim in a time bound manner, keeping in view the aforesaid judgments squarely covering his case, special reports being available and his work and conduct being upto the mark and by granting an opportunity of hearing to him.

3. Learned State counsel has no objection to the limited prayer made.

4. In view of the above and without commenting on the merits of the case, this petition is hereby disposed of with a direction to the respondents to consider and decide the claim of the petitioner, taking note of the afore-referred judgments, within a period of 4 months, which this Court has no reason to believe the authorities would not address in a just, fair and reasonable manner. Upon doing so, after notice and hearing offered to him and if found entitled, grant the benefit forthwith. Needless to say, if the orders are adverse to his interest, the same shall contain reasons and the petitioner shall be free to seek legal redress thereupon.

(AMAN CHAUDHARY)
JUDGE

16.05.2024

ashok

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