



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

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CWP-26283-2016

Date of decision : 17.09.2024

Balbir Singh

....Petitioner

V/S

State of Haryana and others

....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sudhanshu Sharma, Advocate for
Mr. Sunil Kumar Bhardwaj, Advocate for the petitioner.

Mr. Saurabh Mohunta, D.A.G., Haryana.

Ms. Swati Dayalan, Advocate for respondent No.5.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ of certiorari, quashing the impugned action of the respondents in withholding the retiral benefits of the petitioner without assigning any reasons or granting an opportunity of hearing to the petitioner; order dated 06.01.2011 (Annexure P-10), restricting the subsistence allowance of the petitioner and for stoppage of one increment with cumulative effect.

2. Notice of motion in the present petition was issued on 19.12.2016 and with regard to relief qua order dated 06.01.2011 (Annexure P-10), the same was withdrawn by learned counsel for the petitioner.



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3. Learned State counsel submits that in view of the averments made in the additional affidavit filed by Sh. Raveesh Pratap Singh, Executive Engineer, Procurement & Disposal Division, Irrigation and Water Resources Department, Panchkula dated 16.08.2023, the petitioner has already been granted the benefit of 1st, 2nd and 3rd ACP and therefore, the instant petition has been rendered infructuous. The averments made in the additional affidavit reads as under :-

“xx xx xx xx xx

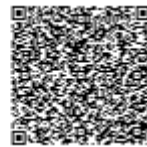
3. *That the petitioner filed the present CWP before the Hon'ble Court with three set of the prayer (1) for quashing the impugned order dated 06/01/2011 (Annexure P-10) (2) further prayed direction to respondent authority to release the retrial benefits of the petitioner and further last one he prayed for granting the 3rd ACP benefits w.e.f 01.12.2011 along with all consequential benefits*

4. *That it is also pertinent to mention here that as stated in order dated 19/12/2016 passed by Hon'ble court the Learned counsel for petitioner withdraws the relief qua order dated 6/01/2011 (P-10). Therefore, the same is dismissed as withdrawn qua such relief which was the 1st set prayed by petitioner in present CWP.*

5. *That it is further also pertinent to mention here that contention relating to his 2nd prayer i.e. granting of pensionary benefit has also been complied with by the respondent department on the receipt of pension paper submitted by the petitioner and all the pensionary benefit had already been released to petitioner and the monthly pension has already been fixed by respondent No. 5 on 12.01.2018 in lieu of submission of pension papers by the petitioner on dated 24.05.2017 and onward submission to respondent No. 5 on dated 31.05.2017. Thus respondent department fully complied with his 2nd set of prayer and above made submission has already been placed on record by the answering respondent before the Hon'ble court.*

6. *That thereafter case came up for hearing on 02.02.2023 and Hon'ble Court passed the interim order which is as under:-*

"Learned state counsel seeks time to have instruction whether the delay has occasioned due to fault of the department or there was in facts a delay on the part of petitioner is submitted the necessary information. Learned state counsel may also advert



to the claim of petitioner regarding 3rd ACP w.e.f. 01.12.2011.

Adjourned to 17.08.2023."

7. *That in compliance of order dated 02.02.2023 it is submitted that as per Addition Chief Secretary to Government of Haryana, Finance Department, Chandigarh vide letter no.-1/53/2012-1PR (FD) dated 29.08.2014 (R-1), 3rd ACP scale was not in existence before 29.08.2014 for JE of three wings of PWD. Hence, the petitioner is not entitled for 3rd ACP scale with effect from 01.12.2011. Even otherwise, before granting of 3rd ACP Scale, it was mandatory for the petitioner to pass the DPE & DRE examination and entry must be entered in the service book. As the petitioner has never submitted any representation/undertaking for granting him 3 ACP from actual date of eligibility i.e. 01.09.2014. Rather than, on scrutiny of record, it was found that the officer has not passed the DPE and DRE examination at that time. Therefore, this office was unable to put up the case of 3^a ACP of petitioner w.e. 01.09.2014 to competent authority. Again, on scrutiny of service book of the petitioner, in pursuance of instruction of Engineer-in-Chief, Irrigation and WR Department Haryana, Panchkula letter No. 159-185/A-I/NGE-11/2017 dated 02.02.2017, it was observed that petitioner has not passed the department exams namely DPE & DRE which were mandatory for promotion and grant of ACPs. Accordingly, Show cause notice served upon the petitioner vide Executive Engineer, Procurement & Disposal Division, Panchkula letter No.447-49/PF dated 05.04.2017 for withdrawal of 1st and 2nd ACP already granted to the petitioner. In reply to show cause notice, the petitioner submitted the details of passed DPE & DRE examination vide his application No. 1/Result/DPE/DRE dated 04.08.2017 (Annexure R-3). Further, Executive Engineer, Procurement & Disposal Division, Panchkula has proceeded the case of 3rd ACP to competent authority & petitioner has been granted the benefit of 3rd ACP scale w.e.f. 01.09.2014 from the date of actual eligibility vide Engineer-In-Chief, Irrigation & Water Resources Department, Haryana, Panchkula office order no. 5688/1EE-11/144/2013 dated 23.07.2018 alongwith arrears (Annexure R-2). Hence there is no delay on the part of respondents no. 1 to 4.*

8. *At this stage no payment is pending on behalf of answering respondent to be paid to petitioner and for the delay of all benefits as demanded through present petition, the petitioner himself was responsible.*

9. *That in view of submissions made in the above mentioned paras, present writ petition filed by the*



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petitioner may kindly be dismissed qua the respondent no. 1 to 4, in the interest of justice.”

4. In this view of the matter, no further cause of action survives in the present petition as the same has become infructuous and is disposed of as such

17.09.2024

(NAMIT KUMAR)
JUDGE

kothiyal

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No