

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

236

CWP-19603-2020 (O&M)
Date of Decision :01.05.2024

Ranvir Singh

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Sangwan, Advocate for the petitioner.

Mr. Pankaj Middha, Addl. A.G. Haryana.

Ms. Anmolpreet Kaur, Advocate for
Mr. H.S. Oberoi, Advocate for respondent No.4.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, grievance of the petitioner is that he was entitled for the grant of benefit of 1st ACP w.e.f. 01.01.2006, which benefit has not been granted to him and, hence, the respondents are under an obligation to grant him the said benefit by passing an appropriate speaking order.

2. In reply, the respondents have submitted that the grant of benefit of ACP is being regulated by Haryana Civil Services (Assured Career Programme) Rules, 2008 (hereinafter referred to as '2008 Rules'), which came into being w.e.f. 01.01.2006.

3. Learned counsel for the respondents submits that no doubt, as per the 2008 Rules in case, an employee has completed 10 years of services as on 01.01.2006, he will be entitled for the grant of benefit of ACP in case, he has not been able to get promotion due to the non-availability of post in the promotional cadre but the case of the petitioner is different.

4. Learned counsel for the respondents further submits that prior to 2008 Rules came into force, the petitioner was considered for promotion to the post of Deputy District Attorney, which promotion was refused by the petitioner and the petitioner kept on refusing the said promotion up to the date of his retirement in the year 2015. Learned counsel for the respondents submits that as per Rule-14 of the 2008 Rules even if, any ACP is granted to an employee and, thereafter, the employee refuses the promotion, the last ACP granted is liable to be withdrawn hence, as the petitioner could not get the benefit of his 1st ACP, even if, the said benefit would have been granted, keeping in view the refusal of the petitioner to accept the promotion, the same was liable to be withdrawn.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. It is a conceded position that grant of benefit of ACP is to be regulated by 2008 Rules. As per Rule 14 of the 2008 Rules, any promotion declined, will result in withdrawal of the last ACP granted. Rule 14 of the 2008 Rules is as under:-

“14. Ceasing of entitlement of ACP Pay

structure:- In case the Government servant chooses to forgo any functional promotion on any ground

whatsoever, while drawing his pay in any ACP pay structure with reference to him, he shall cease to be entitled to draw his pay in the ACP pay structure last granted to him and shall draw his pay in the pay band and grade pay he was drawing before the grant of the last ACP grade pay from the date of such forgoing of promotion.”

7. A bare perusal of the above rule would show that any ACP granted to an employee and any employee forgoes promotion of the grant of ACP, last ACP granted to such employee is liable to be withdrawn and employee is liable to draw his pay in the pay band and the grade pay, which he/she was drawing before the grant of the last ACP granted.

8. In the present case, before 2008 Rules came into operation, petitioner had already refused promotion to the post of Deputy District Attorney. That being so, the benefit of ACP, even if, was to be granted on 01.01.2006 could not be granted under Rule-14 of 2008 Rules. Even if, benefit of ACP has been granted and petitioner would have refused the promotion to the post of Deputy District Attorney thereafter, even then, the same is liable to be withdrawn hence, claim of the petitioner for the grant of 1st ACP in the facts and circumstances of the present case where starting from the year 2008 till the year 2015, the petitioner refused the grant of promotion by giving in writing, his claim for the grant of benefit of ACP from 2006 is contrary to the Rule-14 of the 2008 Rules.

9. No other argument has been raised.

10. Keeping in view the facts and circumstances recorded

hereinabove, present petition is dismissed.

11. Civil miscellaneous application pending, if any, is also disposed of.

May 01, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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