

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101 CM-765-CWP-2024 in/&
CWP-454-2016 (O&M)
Date of Decision :04.04.2024

Jai Parkash Gupta ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Kamal Singh, Advocate for the petitioner.

Mr. Harish Nain, AAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

CM-765-CWP-2024

Present application has been filed for recalling the order dated 10.01.2024 passed by this Court by which, the main writ petition was dismissed for non-prosecution.

Keeping in view the averments made in the application, which are duly supported by an affidavit, application is allowed. Order dated 10.01.2024 passed by this Court is recalled and the main writ petition is ordered to be restored to its original number and status and is taken up for hearing today itself.

CWP-454-2016

1. In the present petition, claim of the petitioner is that the petitioner has completed a period of 10 years of service from the date of

grant of 1st ACP in the year 1990 and he was entitled for the grant of benefit of 2nd ACP in the year 2000, which benefit was extended to him only in the year 2004 hence, the respondents are under an obligation to grant the petitioner benefit of ACP from the due year i.e. 2000.

2. The respondents are contesting the claim of the petitioner and submits that the petitioner was charge-sheeted on 01.07.2000 i.e. before the completion of 10 years of service and as the petitioner was facing disciplinary proceedings, he was not fit for promotion and consequently he cannot be granted benefit of ACP from the year 2000 the said date and it was only after the petitioner was awarded minor punishment in the said disciplinary proceedings, he was extended the benefit of 2nd ACP in the year 2004 upon conclusion of the disciplinary proceedings.

3. Learned counsel for the petitioner has not been able to contradict the said factual position.

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

5. In the present petition, the only claim raised by the petitioner is that on completion of 10 years of service, the petitioner was entitled for grant of benefit of 2nd ACP from the year 2000, which was not granted to him immediately but was granted to him on 01.10.2004.

6. Once, the petitioner was facing departmental proceedings on completion of 10 years of service in the year 2000, the petitioner could not have got benefit of ACP as the ACP is only admissible to the employee, who is fit for promotion but could not get the said benefit due to the non-availability of promotional avenue. But as petitioner was facing disciplinary proceedings in the year 2000, he was not fit for promotion in the year 2000.

It is a conceded position that after the conclusion of the departmental proceeding in the year 2004, which were pending against the petitioner, he was granted the benefit of ACP for the year 2004. That being the factual position, which has gone unrebutted, no ground is made out for the grant of benefit of ACP to the petitioner in the year 2000 hence, the present petition is accordingly dismissed.

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

April 04, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No