



**CM-13340-CWP-2024 in/and
CWP-18582-2023**

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**108+239 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM-13340-CWP-2024 in/and
CWP-18582-2023
Date of decision: 20.09.2024**

DINESH KUMAR SHARMA

...PETITIONER

VERSUS

STATE OF PUNJAB AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

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

Ms. Saguna Arora, AAG, Punjab.

Mr. Gaganinder Singh Barsat, Advocate for respondent No.4.

NAMIT KUMAR, J. (ORAL)

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This is an application filed under Section 151 CPC for placing on record reply by way of affidavit of Harpreet Singh Atwal, Deputy Secretary to Govt. of Punjab, Department of Local Government, Punjab on behalf of respondent Nos.1 and 2 along with Annexures R-1 and R-1/T.

For the reasons mentioned in the application, the same is allowed, subject to all just exceptions. Reply on behalf of respondent Nos.1 and 2 along with Annexures R-1 and R-1/T is taken on record.

Main case

1. The instant petition has been filed by the petitioner under Articles 226/227 of the Constitution of India, claiming the following reliefs:-

"Issue a writ in the nature of mandamus, directing the respondents to release the remaining amount of service-cum-retirement dues of the petitioner including 4-9-14



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years of Assured Career Progression Scheme, as well as DA @ 119% and arrears thereof and all other benefits, which have been withheld by the respondent department, along with interest for delayed period in view of the law settled by this Hon'ble High Court in A.S.Randhawa Versus State of Punjab, 1997 (3) SCT 468, and for which a Legal Notice (Annexure P-6) dated 30.06.2023 has also been served by the petitioner."

2. In the written statement filed by respondent Nos.1 and 2, it has been stated as under:-

" xxx xxx xxx xxx

3. *That it is further respectfully submitted that so far as the claim of the petitioner sought to be raised through the present petition is concerned, in this regard, it is submitted that the upon perusal of official records, it has come forth that previously as a result of initiation of disciplinary proceedings against the petitioner, vide order No. CVO/667-2002/2140, dated 13.11.2002, it was ordered to record entries in the Service Book of the petitioner for imposition of penalty of stoppage of two increments without cumulative effect upon the petitioner. Hence, the benefit under Assured Career Progression Scheme (Hereinafter referred to as 'ACP Scheme') could not be granted at the level of the respondent No.4. Thus, the Respondent No. 4 has forwarded case of the petitioner for the grant of benefit under ACP scheme to the Respondent No. 2.*

4. *That it is pertinent to mention here that petitioner had given representation to avail the benefits of 16 years ACP to respondent No.4 on 31.03.2011, whereas the 16 years of service of the petitioner was completed*



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on 02.03.2009. Further, it is important to mention here that the Government of Punjab notified various structural pay scale to the Junior Engineers. The Department of Finance issued a letter No.5/138/2009-3 FP1/881 dated 01.12.2011 through which the structural pay scale has been granted to the junior engineers on completion of 10/20/25 years of service due to this the representation dated 31.03.2011 of the petitioner was not considered by the respondent no. 2. So, the case had been sent back for reexamination in terms of latest instructions. Thereafter, the Answering Respondent never received the case of the petitioner for further examination. However, at present petitioner has retired from the service on 28.02.2023, the claim of the petitioner has been duly considered and all the benefits have been granted to the petitioner.

5. That it is further respectfully submitted that after considering claim of the petitioner, the Respondent No.2 has passed necessary orders, which have been issued vide Letter dated 28.5.2024 granting due and admissible benefits to the petitioner under ACP Scheme from the due date(s). Vide the said order, the petitioner has been granted benefit under ACP Scheme upon completion of 16 years' service in the cadre of Junior Engineer i.e. with effect from 2.3.2009. Likewise, vide the said orders, the petitioner has also been granted benefit under the ACP Scheme upon completion of four years' service in the cadre of Assistant Municipal Engineer with effect from 12.12.2015 and pay of the petitioner has also been re-fixed accordingly. A copy of the orders dated 28.5.2024 is being appended as Annexure R-1/T herewith for kind perusal of this Hon'ble Court.

6. That it is further respectfully submitted that



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necessary payments as a consequence of the order dated 28.05.2024 are to be released and paid to the petitioner by the respondent No.4 as the respondent No.4 is the concerned authority to release the payment. It is further respectfully submitted that on the basis of grant of benefit under ACP Scheme to the petitioner and re-fixation of pay, the due and admissible pensionary benefits and payment in respect of Dearness Allowance, if any, are also to be released and paid by the Respondent No. 4.

7. That it is further respectfully submitted that in the humble understanding of the answering respondents, the grievance of the petitioner sought to be raised through the present petition, so far as it relates to the answering respondent, stands redressed. Therefore, the present writ petition of the petitioner has become infructuous.

3. In view of the averments made in Para 4 of the above written statement, counsel for respondent No.4 submits that the necessary payments shall be released to the petitioner within a period of one month.

4. In this view of the matter, the instant petition has been rendered infructuous.

5. Disposed of as having become infructuous.

6. Let the necessary benefits be released to the petitioner within a period of one month from today.

20.09.2024
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(NAMIT KUMAR)
JUDGE