

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

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*LPA-646-2017**Date of decision:- 30.04.2024*

Uttar Haryana Bijli Vitran Nigam Ltd and ors.Appellants

VS.

Harbans Lal ...Respondent

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Puneet Jindal, Sr. Advocate assisted by
Ms. Navroop Jawanda, Advocate
for the appellants.

Mr. Naveen Daryal, Advocate
for the respondent

SANJEEV PRAKASH SHARMA, J. (Oral)

1. This appeal is preferred against the judgment dated 10.11.2016 passed by the learned Single Judge, whereby the order rejecting the claim of the petitioner for 3rd pay scale in terms of Assured Carrer Progression (for short 'ACP') to the petitioner has been set aside and the learned Single Judge has directed that the petitioner would be entitled to the 3rd ACP scale on completion of 30 years of service as Meter Reader w.e.f 14.11.2009.

2. Learned senior counsel has taken us to the provisions of the order dated 27.02.2009 issued by the Finance and Budget Section of UHBVNL whereby it framed ACP Rules, 2009 for the employees of the UHBVNL. Learned senior counsel submits that as per the said Rules since the respondent was already promoted once, he would not be entitled for 3rd ACP but would be entitled for the benefit of second ACP alone, as in the entire career, one can only get three ACPs, subject to a situation

where a person may not have received any financial upgradation in his entire service career. Thus, in simple words, a person would be entitled to receive 3rd ACP benefit, if he is stagnated on his post all throughout his life career.

3. Learned senior counsel has also pointed out that as per Rules, one can only receive three ACPs or three financial upgradations in his/her entire service career. He, therefore, submits that the directions issued by the learned Single Judge directing for grant of 3rd ACP scale on completion of 30 years of service as Meter Reader would import granting the petitioner four financial upgradations, and, therefore there is an error apparent in the order and the same deserves to be set aside.

4. Per contra, learned counsel for the writ-petitioner has taken this Court to the service record of the petitioner to submit that the petitioner was promoted as Meter Reader from the post of Bill Distributor w.e.f 14.11.1979 and was placed in the pay scale of 110-250. He would therefore be entitled to two further financial upgradations on completion of 10 years of service on the post of Meter Reader and thereafter, on completion of 20 years of service on the same post. He would not be entitled for 1st ACP as he had already been promoted. However, learned counsel for the writ petitioner submits that the writ-petitioner is also entitled for 3rd ACP on completion of 30 years of service as Meter Reader and he, therefore, supports the order passed by the learned Single Judge.

5. We have given our thoughtful consideration to the order passed by the learned Single Judge.

6. We find that the petitioner was appointed initially as a Bill Distributor on 26.10.1973. Before he could complete 10 years of service

on the post of Bill Distributor, he had already been promoted as Meter Reader on 14.11.1979 and, thus, he was not stagnated on the post of Bill Distributor and has been given the higher pay scale of Meter Reader w.e.f 14.11.1979. Hence, as per the Rules, which we will refer to **here-in-below**, he would not be entitled for grant of 1st ACP from the post of Bill Distributor. Thereafter, it is noticed that the writ-petitioner continued on the post of Meter Reader up to 01.12.2009 and was thereafter promoted to the post of UDC on 24.06.2010. He has therefore remained as Meter Reader for 30 years. However, as per Rules, we find that the objective of the Rules is to provide benefit of three financial upgradations to an employee, who has remained stagnant on a post. Such financial upgradation can be given only 3 times in an entire service carrer. Looking at the same, we find that as the petitioner has been promoted as a Meter Reader, his first ACP was not required to be given. He would get one ACP upgradation on completion of 10 years of service and 2nd ACP on completion of 20 years of service as a Meter Reader. He would get 2nd ACP, which would infact be 3rd financial upgradation. Thereafter, he would not get any financial upgradation. Mathematically, if we count it accordingly, he gets the second financial upgradation from the post of Meter Reader i.e 2nd ACP on completion of 10 years on 15.11.1989 and thereafter, 2nd ACP on 15.11.1999. No further ACP would be available for the petitioner on the post of Meter Reader or on further post. Accordingly, the petitioner's pay scale has to be revised in the pay scale, as available to him equivalent to the old pay scale. The benefit of grade pay would also be admissible accordingly. The view expressed by this Court is in consonance with the judgment of Hon'ble the Supreme Court

of India in a case of ***Amresh Kumar Sinha vs. The State of Bihar***, 2023

(6) Scale 782 wherein in para No. 13 and 14, it has been observed as under:-

“13. At the cost of repetition, it must be borne in mind that the object of ACP is to avoid stagnation where no promotional avenues are available. The grant of ACP is not technically a grant of promotion but increase in the pay scale to the next higher grade retaining the employee on the post held by him. This is only to accord monetary benefit without disturbing any seniority or actually effectuating promotion to any higher post to avoid stagnation on a particular post or pay scale for a very long period.

14. The object and purpose of ACP/MACP Scheme has been reiterated by this Court in [Union of India & Others Vs. C.R. Madhava Murthy & Anr.](#) (2022) 6 SCC 183, as one to relieve the frustration on account of stagnation and it does not involve actual grant of promotional post but merely monetary benefits in the form of next higher grade subject to fulfilment of qualifications and eligibility criteria.”

7. This Court also takes into consideration the law as laid down in ***Ramesh Dahiya vs. UHBVNL***, 2008(2) SCT 624, which has been relied upon by the learned Single Judge and find that the concerned person to whom the benefits were granted, was not given any benefit of promotion. However, the Court has observed that if the concerned petitioner would have been promoted from the post of draftsman to the post of Head Draftsman, which is next promotional post and had remained on that post for 10 years as on 01.01.1996, he would have been given the first ACP scale of the post of Head Draftsmen on 01.01.1996. Thus, the corollary is that if a person has been given promotion then he will be denied the first ACP, as he has already placed in the higher pay

scale.

8. In view of the above discussion, we direct that although the petitioner would be entitled to receive the 2nd ACP from 1989 but since the Rules of ACP have been adopted w.e.f. 01.01.1996, the actual benefit would be given only from 01.01.1996 of 2nd ACP and the benefit of 3rd ACP w.e.f December, 2009 after completion of 30 years of service. The petitioner is to be placed in the pay scale of Rs.5000-8000 with grade pay of Rs.3600/- w.e.f November, 1999. The order dated 10.11.2016 passed by the learned Single Judge is modified to the aforesaid extent.

9. The appeal stands disposed of in the above terms.

10. Pending applications, if any, is/are also disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

April 30, 2024
G Arora

(SUDEEPTI SHARMA)
JUDGE

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