

2024:PHHC: 020192
224 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-34707-2019
Date of Decision : 12.02.2024

Naresh Kumar Kataria ...Petitioner
Versus
State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Petitioner in person.

Mr. Charanpreet Singh, AAG, Punjab.

AMAN CHAUDHARY, J.

1. The prayer in the present writ petition is for quashing orders dated 26.09.2019 and 18.09.2017, Annexures P-9 and P-5 respectively, whereby the benefits of ACP Scheme were declined to the petitioner.

2. Petitioner submits that his grievance is that his request for grant of the benefit of financial upgradation from dates of 4, 9 and 14 years service was wrongly declined in view of para 7 of the previous Instructions dated 17.04.2000, Annexure P-1, which has been allowed w.e.f. 1st January of the succeeding year, instead of the date of completion. The issue already stands decided by this Court in CWP No.23932 of 2012 titled as **Dr. Rajesh Gupta versus State of Punjab**, on 31.07.2018, Annexure P-6, which on having been taken up in LPA No.102 of 2021, alongwith three connected appeals was affirmed vide judgment dated 24.01.2023. The Division Bench had in fact observed that the judgment of the Single Bench was in *rem* and the benefit could not be confined only to the parties therein. It has to be extended to all similarly placed employees as well. There was no SLP filed against the same.

3. Learned State counsel, on the other hand, submits that as per Para

No.7 of the Instructions dated 17.04.2000, the benefit of the ACP was rightly granted with effect from the succeeding year. There is a delay on part of the petitioner in approaching this Court. However, he has neither been able to dispute the factual position nor cite any contrary law.

4. Petitioner rebuts the aspect of delay bringing to the notice of this Court the factum of grant of benefit of ACP in the year 2017, a representation regarding plea as urged in the present petition was submitted to the respondents in January, 2019, whereafter, CWP No.5671 of 2019 was filed, which was disposed of with a direction to the respondents to decide the same but it was rejected vide order dated 26.09.2019 (Annexure P-9). Without any further adieu, the present petition was filed on 22.11.2019. As a matter of fact, the respondents being a welfare State should have extended the benefit of the judgment to the petitioner, by themselves. He prays that after the grant of benefit in terms of aforesaid judgment, the petitioner be permitted to give an option for the increments.

5. Heard.

6. The controversy involved herein is no longer *res-integra*, as the Division Bench of this Court in **Dr.Rajesh** (supra), has observed and held that, “Thus, in view of the observations made above and the settled proposition of law on the issue in hand, the present petition is “Allowed” and Para-7 of the Guidelines issued vide Executive Instructions dated 17.04.2000 (P-1) of the Department of Personnel, Government of Punjab to extent it deferred the financial upgradation in the ACP on completion of 04, 09 and 14 years of regular service to First (1st) January of the succeeding year for certain cadres of employees including the cadre of Veterinary Officers (that of the petitioner) from the date of its effectuation upto 30.11.2011 is set-aside being

unreasonable, unjust, illegal and unlawful and is contrary and ultra vires to statutory provisions granting benefit of placement in higher pay scale under Punjab Civil Services (Revised Pay) (First Amendment) Rules 1998. The respondents are directed to grant and revise the benefits alongwith arrears to the petitioner and other affected employees towards placement in higher pay scale on completion of 04, 09, and 14 years of service based on the provisions of Punjab Civil Services (Revised Pay) (First Amendment) Rules 1998 as applicable and read with Instructions dated 17.04.2000 (P-1) by deleting the offending clause of deferring the placement in higher pay scale in Para 7 of the Instructions dated 17.04.2000. No costs. The necessary relief shall be released to the petitioner within a period of four (04) months from the date of receipt of the certified copy of this order, failing which authorities concerned shall make themselves liable to be hauled up in contempt proceedings.”

7. The facts being broadly admitted and the case of the petitioner falling within the four corners of the aforesaid judgment, he is held entitled in terms thereof. The necessary orders in this regard be passed modifying the dates of entitlement of ACP alongwith consequential benefits within a period of six weeks. The petitioner be granted an opportunity to submit his option as regards his increments are concerned.

8. Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

February 12, 2024
ps

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