



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

**CWP-343-2000 (O&M)
Date of Decision: 15.07.2025**

Pushpa Rani and Ors.

...Petitioners

Vs.

Uttar Haryana Bijli Vitran Nigam Limited and Ors.

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ashwini Talwar, Advocate with
Ms. Pratiksha Sharma, Advocate for the petitioners.

Mr. Gaurav Jindal, Advocate for the respondents

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Article 226/227 of the Constitution of India are seeking setting aside of order dated 02.06.1999 whereby Late Sh. Hans Raj was denied benefit of ACP.

2. Petitioner No.1 is widow of Late Sh. Hans Raj son of Late Sh. Guruditta Mal. Petitioners No.2 and 3 are children of Late Sh. Hans Raj. Late Sh. Hans Raj was working with the respondent as Lower Division Clerk. He had joined service as Meter Reader. He could not be promoted to the post of Upper Division Clerk because he could not pass the departmental exam. The petitioners are claiming Assured Career Progression (in short 'ACP') on the ground that the deceased employee i.e. Late Sh. Hans Raj was not promoted, thus, as per office order dated 27.02.1998, he was entitled to ACP.

3. Mr. Ashwini Talwar, Advocate submits that deceased



employee was entitled to promotion under 25% quota without passing departmental exam. The condition for promotion was to have six years' service. The deceased employee completed six years' service still he was not promoted. Meaning thereby, he was eligible for promotion. As he was not promoted, he was eligible to ACP.

4. *Per contra*, Mr. Gaurav Jindal, Advocate submits that ACP was introduced *vide* order dated 27.02.1998. There were terms and conditions in the policy. The respondent issued office order dated 21.12.1998 in terms of ACP policy and as per policy read with order dated 21.12.1998, an employee was entitled to ACP only if he has complied with condition of passing the departmental exam. The deceased employee did not pass the departmental exam, thus, he was not entitled to ACP.

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

6. The respondent *vide* office order dated 27.02.1998 introduced ACP Scheme. As per the said scheme, the employees are entitled to higher pay scale if they are not promoted within the requisite period. The intent of policy is to tide over stagnation. There are terms and conditions of the policy. The relevant extracts of the policy, which are directly applicable to the instant case are reproduced as below:-

“(3) For determining the eligibility of grant of ACP scale, following conditions must also be fulfilled by the Board employees:-



(a) After completing the respective prescribed period for eligibility for the grant of ACP scales the Board employee should be fit to be promoted to the next higher post in the functional hierarchy in his cadre, but could not be functionally promoted due to lack of vacancy in the promotional post in the hierarchy to which he is eligible to be promoted;

(b) If such promotion involves test of any departmental post or other test etc. such condition should also be fulfilled by such Board employee.

(4) The eligibility for grant of the ACP scales shall further be subject to any other restriction as may be prescribed by the Board from time to time including the restriction of the number of Board employee to be granted the respective ACP scales in terms of percentage of posts in the cadre to which such ACP placements shall be limited;

Provided that till the time such restrictions are not imposed by the Board:-

there shall be no restrictions on the number of Board employee to be granted the first or second ACP scales with reference to the Board employees covered in para 4.”

7. The respondent in terms of aforesaid policy issued office order dated 21.12.1998. The said order is reproduced as below:-

“Memo No.13/II(550)F/L

Dated 21-12-1998.

Sub:- Grant of ACP-1 to LDCs/M.R.s.

Kindly refer to your office Memo No. Ch.16/Ep-



1576 dated 11-11-98 on the subject noted above.

2. In this connection, it is clarified that in terms of para 5(3) of O/O No.706/F dated 27-2-1998, the condition of passing the DAE is also required to be fulfilled by the employees who are already working in the Higher Standard pay scale for determining the eligibility for grant of ACP scale.

3. This issues with the approval of Director/Finance, NVPNL, Panchkula.”

8. From the perusal of policy read with order dated 21.12.1998, it is evident that passing of departmental exam was mandatory condition to claim ACP. An employee who has not passed the departmental exam could be entitled to promotion, however, he was not entitled to ACP on the ground that he has not been promoted.

9. The respondent *vide* order dated 27.02.1998 declared a detailed policy wherein terms and conditions for the entitlement were underscored. The respondent in continuation of said policy issued order dated 21.12.1998. From the conjoint reading of policy and order dated 21.12.1998, it is evident beyond pale of doubt that ACP was available to an employee who was eligible for promotion but could not be promoted on account of non-availability of post. It was clearly mentioned in the aforesaid documents that the employee would not be entitled to benefit if he has not cleared the departmental exam. The deceased employee concededly did not clear the departmental exam. He could be entitled to promotion, however, was not entitled to ACP because terms and conditions of the policy categorically provided that ACP would be

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available to an employee who has cleared the departmental exam.

10. It is settled proposition of law that if benefit is created by any circular or notification subject to compliance of conditions, the benefit cannot be extended unless and until terms and conditions of the circular/notification are complied with. In the instant case, the benefit was extended by the policy dated 27.02.1998 read with order dated 21.12.1998. The deceased employee did not comply with the terms and conditions of the policy, thus, he was not entitled to ACP.

11. In view of above discussion and findings, this Court is of the considered opinion that present petition deserves to be dismissed and accordingly dismissed.

12. Pending miscellaneous application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

15.07.2025*DPA/Mohit Kumar*

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No