



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

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**CWP-24296-2014 (O&M)  
Reserved on: 28.10.2025  
Pronounced on: 04.11.2025**

Devender Singh ...Petitioner  
Versus  
State of Haryana and Others ...Respondents

**CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Dr. Suresh Kumar Redhu, Advocate  
for the petitioner.

Mr. Ravi Partap Singh, DAG, Haryana.

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**JAGMOHAN BANSAL, J.**

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondent to release benefit of 2<sup>nd</sup> ACP as well as grant him higher rank.

2. Learned counsel representing the petitioner, at the outset, concedes that petitioner has already been extended Exemptee rank of Head Constable (HC) as well as Assistant Sub Inspector (ASI), thus, prayer *qua* Exemptee rank has rendered infructuous. He further submits that petitioner was entitled to benefit of ACP as per Haryana Civil Services (ACP) Rules, 2008 and notification dated 04.03.2014. He was awarded punishment of stoppage of two annual increments with temporary effect vide order dated 08.01.2008. On account of said punishment as well as non-passing of Lower School Course, he was not promoted on the substantive rank of HC. He was promoted as EHC on 05.02.2018 and thereafter as EASI. He was granted 1<sup>st</sup> ACP on

01.11.2011 whereas 2<sup>nd</sup> ACP was granted on 01.02.2018 i.e. after completing 27 years' service. Punishment of forfeiture of two increments with temporary effect was minor punishment. The petitioner was not promoted on account of non-passing of lower school course, however, he was eligible for 2<sup>nd</sup> ACP as per applicable Rules. ACP could not be withheld on account of punishment of stoppage of two increments with temporary effect.

3. *Per contra*, learned State counsel submits that petitioner was holding rank of Constable. ACR of a Constable is not recorded. The petitioner was awarded punishment of stoppage of two increments for misconduct of accepting bribe of Rs.100/- from a truck driver. He was found guilty of accepting bribe, thus, his integrity was doubtful. As per Government instructions, an employee whose integrity is doubtful cannot be promoted for next 10 years. Benefit of ACP is granted to get rid of stagnation. Benefit of ACP is available to a Constable who is deprived of opportunity of promotion on account of lack of vacancies. The petitioner was not eligible for promotion on account of doubtful integrity. He further did not pass lower school course. There was no fault on the part of State, thus, petitioner was ineligible for ACP.

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

5. The petitioner is claiming ACP as per Rule 7 of Haryana Civil Services (ACP) Rules, 2008 (for short 'ACP Rules'). The respondent has denied said benefit on the basis of Rule 8. Rule 7 and 8 are reproduced as below:

*“7. Eligibility for grant of ACP grade Pay under the general ACP scheme:—*

*(1) Every government servant covered under the general ACP scheme shall, for the purposes of drawal of pay, be eligible for the first ACP grade pay (given in column 4 of Part II of Schedule I in respect of the functional pay scale or pay structure of his post) if he has completed 10 years of regular satisfactory service and has not got any financial upgradation in these ten years with reference to the functional pay structure of the post to which he was recruited as a direct entrant. Financial upgradation in this context includes functional promotion in the hierarchy or further revision/ modification of the pay structure for the same post after 1.1.2006.*

*(2) Every government servant covered under the general ACP scheme shall, for the purposes of drawal of pay, be eligible for the second ACP grade pay (given in column 5 of Part II of Schedule I in respect of the functional pay scale or pay structure of his post) if he has completed 20 years of regular satisfactory service and has not got any financial upgradation in the last ten years. Financial upgradation in this context includes functional promotion in the hierarchy or further revision/ modification of the pay structure for the same post after 1.1.2006.*

*(3) Every government servant covered under the general ACP scheme shall, for the purposes of drawal of pay, be eligible for the third ACP grade pay (given in column 6 of Part II of Schedule I in respect of the functional pay scale or pay structure of his post) if he has completed 30 years of regular satisfactory service and has not got any financial upgradation in the last ten years and has not got more than two financial upgradation so far. Financial upgradation in this context includes functional promotion in the hierarchy or further revision/ modification of the pay structure for the same post after 1.1.2006.*

*(4) In case of a government servant who gets promoted, he will be considered for the next ACP grade*

*pay after he completes 10 years of regular satisfactory service in the promotional post without any financial upgradation and will be entitled to the next ACP grade pay with reference to the grade pay of the promotional post he holds : Provided that a government servant shall not be entitled to avail ACP upgradation if, he has already availed of three financial upgradation of any kind in his career.*

*Note.— For the purpose of these rules, “regular satisfactory service” means continuous service counting towards seniority under Haryana government, including continuous service in Punjab Government before re-organization, commencing from the date on which the government servant joined his service after being recruited through the prescribed procedure or rules etc. for regular recruitment, in the cadre in which he is working at the time of being considered his eligibility for grant of ACP pay band and grade pay under these rules and further fulfilling all the requirements prescribed for determining the suitability of grant of ACP pay structure.*

*Explanation.— The ACP pay structure upgradation in the form of first ACP grade pay will come into play only if a government servant has not got the benefit of at least one grade pay upgradation within the prescribed period of first 10 years. Similarly, the second and third ACP grade pays will come into play only if a Govt. servant does not get two upgradations after twenty years of service and three upgradations after thirty years of service. If within 10 years of service, the government servant has already got at least one financial upgradation or within 20 years of service, the government servant has already got at least two financial upgradations, or within 30 years of service, the government servant has already got at least three financial upgradations, benefit of these rules will not be extended to such employees save if otherwise provided in these rules.*

#### *8. Other general conditions of eligibilities of ACP*

*pay structure :—*

*The following general conditions shall also be fulfilled by a Government servant for availing benefit of ACP :—*

*(a) after completing the respective prescribed period for eligibility for the grant of ACP pay structure the Government servant 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 involved passing of any departmental test or other test etc., such condition should also be fulfilled by such Government servant.”*

6. As per Rule 7, benefit of ACP is available on completion of stipulated period of service and as per Rule 8, employee is required to comply with specified conditions. One of those conditions is that he should be fit for promotion. The petitioner has not assailed said condition. Thus, question that needs to be determined is whether petitioner was fit for promotion on completion of requisite number of years to avail ACP.

7. The petitioner concededly was subjected to punishment of forfeiture of two increments with temporary effect for accepting bribe. Said punishment attained finality. As per instructions issued by State Government, an employee would not be eligible for promotion if his integrity was doubtful during last 10 years. Relevant extracts of instructions dated 13.04.1972 and 21.05.1973 (Annexures R-1 and R-2) read as:

***Instruction dated 13.04.1972-***

*“2. The matter has been carefully considered by the State Govt. with a view to laying down definite standard for considering persons suitable for being placed in the*

*slab of suitable officials/officers at the time of making promotion to the selection posts. It has been decided that only such officials/officers who have obtained at least 50% Good or better than average reports on the posts from which they are being considered for further promotion and the overall assessment can be classified as better than 'Average' should be placed in the slab of suitable officials/officers. If in any particular case, the total number of reports earned on the post from which the official/officer is being considered for further promotion are for less than 10 years, then the reports earned on the lower post/posts should also be considered so that the reports for a period of 10 years are kept in view for determining suitability. However, in such case, greater weightage shall be given to the reports earned on the higher post from which further promotion is being considered.”*

***Instruction dated 21.05.1973-***

*“2. Government have considered the matter further and have decided that the criteria to determine the honesty/integrity also of an officer/official should be that if in reports for the proceeding ten years in respect of the post from which he is to be promoted a doubt has been expressed regarding his honesty, he should not be promoted. If the total number of annual confidential reports in respect of the post from which he is to be promoted is less than ten then reports in respect of the next lower post should be examined so that the total number of reports taken into consideration are at least for a period of ten year. In case the total number of annual reports in respect of the post from which he is to be promoted is more than ten & a doubt has been expressed regarding his honesty in any report which is more than ten years old: then keeping in view his overall performance in latest ten reports, it will be open to the appointing authority to ignore the adverse remarks relating to doubtful integrity in reports which are more than ten years old and to include*

*the name in the slab of three suitable officers/officials if the concerned officer/official fulfils other conditions with regard to suitability. The above criteria for judging the honesty of officer/official will also be applicable in those cases where promotion is made to posts or higher scale of pay (such as selection grade of Haryana Civil Services, Executive Branch) not on the principle of slab of three suitable officers/officials but strictly by selection, according to the provision made in the relevant service rules.”*

8. From the perusal of above instructions which are not under challenge, it is lucid that an employee would not be promoted if his integrity was doubtful in last 10 years. Question of integrity is determined from ACR. In case of constables, ACR is not recorded. The petitioner was subjected to punishment on account of accepting bribe. Punishment for accepting bribe speaks itself of integrity of an employee. There remains no doubt that integrity of the petitioner was doubtful. It is true that effect of punishment of censure or temporary forfeiture of increments expires on the expiry of particular period, however, reason of punishment cannot be ignored in the light of Government instructions dealing with promotion. The petitioner was not eligible for promotion as per government instructions, thus, as per ACP Rules, he was ineligible for ACP. Purpose of ACP is to get rid of stagnation and compensate in lieu of promotion. If ACP is granted to a person who is ineligible for promotion, object of ACP would be defeated. There is specific condition in the ACP Rules which cannot be ignored. The petitioner cannot claim benefit ignoring the conditions stipulated by Rules which create right. An employee cannot be permitted to approbate and reprobate the same Rule.

9. In the wake of above discussion and findings, this Court is of the considered opinion that instant petition deserves to be dismissed and accordingly *dismissed*.
10. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)  
JUDGE

04.11.2025  
*Prince Chawla*

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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |