



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

205

CWP-19067-2021 (O&M)
Date of decision: 12.09.2025

Jaspal Singh (since deceased) through his LRs

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Pankaj Sharma, Advocate
for the petitioner.

Mr. Piyush Khanna, Addl. A.G., Haryana.

Mr. Arvind Seth, Advocate
for Mr. Rajesh Gaur, Advocate
for respondents No.2 and 3.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the order dated 28.02.2019 (Annexure P-10) passed by respondent No.3 whereby the claim for grant of 1st ACP scale to the petitioner has been rejected.

2. Learned counsel for the petitioner, *inter alia*, contends that the primary grievance of the petitioner is that the respondent/Corporation has not paid him the 1st ACP scale after completion of 10 years of service with respondent/Corporation, which accrued on 03.12.1997. The petitioner joined the respondent/Corporation as a Driver on 04.12.1984 and he retired as such



in the year 2020. On 11.08.1997, one FIR No.109 dated 11.08.1997 was registered against the petitioner under the Excise Act along with Section 120-B IPC at Chandigarh and on account of the same, the petitioner was placed under suspension on 13.08.1997. Thereafter, a charge-sheet was served upon the petitioner on 04.12.1997 i.e. one day after completion of 10 years of service and the departmental proceedings continued for more than 02 years and 09 months and was only concluded on 31.03.2000. Later on, the petitioner was acquitted by learned Additional Chief Judicial Magistrate, Chandigarh on 17.08.2001, however, on the basis of the enquiry report, a show cause notice was served upon the petitioner on 02.01.2002 and he was dismissed from service. The petitioner approached this Court by filing a petition i.e. CWP No.19268 of 2003, challenging the order of dismissal and this Court set-aside the order of dismissal and remanded the matter back to the respondent for a fresh decision. In compliance of the direction issued by this Court, a fresh order was passed by the Managing Director of the respondent/Corporation on 19.07.2006, after consideration of the case of the petitioner by the Executive Committee in its 68th meeting held on 17.05.2006 as discernible from the order dated 19.07.2006 (Annexure P-3). The petitioner was reinstated and all consequential benefits were given to him and even the time spent by the petitioner on suspension period was treated as duty period as discernible from the order dated 23.08.2007 (Annexure P-4). The decision taken by the respondent/Corporation through its Managing Director on 19.07.2006



was challenged by his predecessor without any authority of law after 2½ years. The second appeal was not maintainable as per Rule 12 of Haryana Civil Services (Punishment & Appeal) Rules, 2016. Thereafter, the petitioner again approached this Court by filing a petition i.e. CWP No.6208 of 2009, which was dismissed as withdrawn on 24.04.2009 with liberty to the petitioner to file an appeal before the Executive Committee. Ultimately the petitioner filed an appeal and the same was considered by the Board of Directors in its meeting on 11.07.2009 and rejected the same on 22.07.2009 (Annexure P-6) by holding that the petitioner has received the subsistence allowance during his suspension period, therefore, he will not be entitled to salary on the principle of 'No wok, No Pay' and the recovery of excess amount was ordered. Further the punishment of warning imposed upon the petitioner vide order dated 25.07.2006, was enhanced to the penalty of stoppage of one increment with cumulative effect. Thereafter, the petitioner has challenged the orders dated 22.07.2009 (Annexure P-6) and 07.10.2009 (Annexure P-7) and this Court on 23.04.2010 had stayed the operation of the orders (Annexures P-6 and P-7, respectively) and admitted the writ petition on 23.04.2010 (Annexure P-8). Thereafter, the respondent/Corporation has challenged the stay order passed by this Court by filing LPA No.1082 of 2010 and the Division Bench of this Court on 01.09.2010 refused to interfere in the order dated 23.04.2010 passed by Single Bench of this Court in CWP No.19150 of 2009. Learned counsel for the petitioner contends that the impugned order dated 28.02.2019 (Annexure P-10)



vide which benefit of ACP on completion of 10 years of service was rejected solely on the ground that there was adverse entry in the record of the petitioner in the year 1997-98.

3. *Per contra*, learned State counsel as well as learned counsel for respondents No.2 and 3 submits that the claim of the petitioner is liable to be kept pending till the decision of CWP No.592 of 2010 and CWP No.19150 of 2009. Both the said petitions are ordered to be heard together by this Court on 14.07.2010 as discernible from Annexure P-8 (Page No.56 of the paperbook). Further the petitioner is not entitled to ACP benefits as there was an adverse remarks of “Dishonest” in his ACR and the punishment of warning was awarded by the Managing Director while passing the order of reinstatement.

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

5. Admittedly the petitioner joined the respondent/Corporation on 04.12.1987 and he has completed 10 years of service on 03.12.1997. Later on, a charge-sheet was served upon him on 04.12.1997 i.e. after completion of 10 years of service. Further the issue involved in the other writ petition is with regard to the modification of the order of punishment and the recovery of excess payment, which has no nexus with the controversy involved in the present case. Further while passing the impugned order, the respondent/Corporation has taken the ground that the petitioner is not entitled to the benefits of ACP as there is adverse remarks in the ACR of



the petitioner for the year 1997-98. A perusal of the written statement (Para No.2 of the preliminary submissions) filed by respondent/Corporation reveals that the respondent/Corporation has categorically submitted that the adverse remarks for the year 1997-98 were communicated to the petitioner vide letter No.17578 of 15.03.2010 i.e. after 12 years from the adverse entry recorded in the ACR of the petitioner for the year 1997-98. The eligibility for grant of ACP scale is provided under Rule 5 of the Haryana Civil Services (Assured Career Progression) Rules, 1998, reads as follows:-

5. ELIGIBILITY OF GRANT OF ACP SCALES:-

1) Every Govt. Servant who after regular satisfactory Service for a minimum period of 10 years, if the minimum period is not otherwise prescribed to be different then 10 years either in these Rules or by the Govt. for any class or categories or Government servant from time to time, has not got any Financial upgradation in terms of grant of a pay scale higher than the functional pay scale prescribed for the post as on 31.12.1995, on which he was recruited as a direct recruited fresh entrant: (a) (b) and (c)...

NOTE:- FOR the purpose of these Rules "Regular Satisfactory Service" would mean continuous service counting towards seniority under Haryana Govt. including continuous service in Punjab govt. before re-organisation commencing from date on which govt. servant joined his services after being recruited through prescribed procedure or rules, etc..."

6. Further the fact with regard to non-communication of adverse entry in the ACR of the petitioner remained un-controverted. In



case such adverse remarks have been communicated to the petitioner it would have enabled the petitioner to represent against it and could have sought review from the competent authority. Non-communication of the adverse remarks in the ACR would render the action taken by the respondent/Corporation suffering from incurable illegality. The act and conduct of the respondent/Corporation in relying upon the adverse entry which was communicated to the petitioner after 12 years cannot be sustained in view of the settled law as laid down in ***Dev Dutt vs Union of India, 2008(3) SCT 429, Sukhdev Singh vs Union of India, 2013(9) SCC 566, Pankaj Prakash vs United India Insurance Company Limited and another, passed in Civil Appeal Nos.5340-5341 of 2019 (arising out of SLP(C) Nos.33462-33463 of 2018, decided on 10.07.2019 and Anil Kumar vs Union of India and other, passed in Civil Appeal No.888 of 2019 (arising out of SLP (C) No.32073 of 2016, decided on 21.01.2019.***

7. Accordingly, the present petition is allowed. The impugned order dated 28.02.2019 (Annexure P-10) is set aside. The respondent/Corporation is directed to grant all consequential benefits on account of Assured Career Progression (ACP) with effect from the date it became due till its actual realization. The pension of the petitioner shall be refixed accordingly and the arrears of consequential benefits shall be paid to the legal representatives (LRs) of the petitioner, Jaspal Singh, who has since passed away on 26.12.2022 and whose LRs have been impleaded in the instant case vide order dated 23.01.2023, within a



period of three months from today. The LR's of the petitioner are also entitled to interest @ 6% per annum, in view of the judgment rendered by the Full Bench of this Court in *A.S. Randhawa Supg. Engineer (Retd.) vs. State of Punjab, 1998 (1) SCT 343*, from the date of filing of the instant writ petition.

(HARPREET SINGH BRAR)
JUDGE

12.09.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No