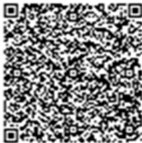


2026:PHHC:088455



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1) CWP-5031-2024 (O&M)

Umed Singh and another

.....Petitioners

versus

State of Haryana and others

.....Respondents

2) CWP-4224-2024 (O&M)

Kishor Kumar and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

3) CWP-7197-2024 (O&M)

Nahar Singh and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

1.	Date when judgment was reserved	13.05.2026
2.	Date of pronouncement of judgment	01.07.2026
3.	Date of uploading the judgment	01.07.2026
4.	Whether operative part or full judgment is pronounced	Full
5.	Delay, if any, in pronouncing of full judgment and reasons thereof	Not Applicable

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Saksham Dudeja, Advocate
for the petitioner (in all the cases).

Mr. Saurabh Girdhar, AAG, Haryana (in all the cases).
Ms. Nikita Goel, Advocate
and Mr. Mohak Kumar Sharma, Advocate

for respondents No.2 and 3 (in all the cases)

HARPREET SINGH BRAR, J.

1. With the consent of all the parties, the aforementioned writ petitions are taken up together and are being decided by this common judgment. However, for the sake of brevity, the facts are taken from CWP-5031-2024.

2. The writ petition (CWP-5031-2024) has been filed under Article 226 of the Constitution of India for the issuance of a writ in the nature of *Certiorari* quashing the order dated 05.06.2023 (Annexure P-2) passed by Municipal Commissioner, Faridabad (respondent No.2), wherein the benefit of 3rd Assured Career Progression (ACP) Scale has been declined. It is further prayed that a writ in the nature of *Mandamus* be also issued directing the respondents to grant the petitioners the benefits of 3rd ACP since the year 2017, on account of having completed 24 years of regular satisfactory service as per the Haryana Civil Services (Assured Career Progression) Rules, 2016, and to release the consequential monetary benefits.

CONTENTIONS

3. Learned counsel for the petitioners has *inter alia* contended that the petitioners were initially appointed in HUDA in the years 1985-1987 as Tubewell/Water Pump Operators and later in the month of April 1992, they were transferred to the respondent-Corporation. Their services were regularised with effect from 01.04.1993 and since then they have been discharging their services with utmost dedication, without any complaint or blemish on their service record.

4. He has further submitted that the Government of Haryana, vide notification dated 28.10.2016, framed the Haryana Civil Services (ACP) Rules, 2016 (hereinafter referred to as “the 2016 Rules”). As per Rule 7(3), every government employee is entitled to the 3rd ACP Scale after completing 24 years of

regular satisfactory service, provided they have not received more than 02 financial upgradations so far with reference to the functional pay structure of the post to which he was recruited as a direct recruit.

5. Learned counsel for the petitioners has further contended that the petitioners had already been granted the benefit of 1st and 2nd ACP on completion of 10 years and 20 years of service, respectively. It is not in dispute that the petitioners have completed 30 years of service, and therefore, they became eligible for the 3rd ACP. However, despite repeated representations and reminders, their claim was not granted. Consequently, they filed CWP No. 6919 of 2023, and this Court, vide order dated 10.04.2023 (Annexure P-1), directed respondent No. 2 to decide their representations. However, respondent No.2 passed an order on 05.06.2023 (Annexure P-2), declining the petitioners' claim for the 3rd ACP. It is further argued that the impugned order is illegal, arbitrary and passed in utter disregard of the rules and in violation of the principles of natural justice.

6. Learned counsel has further contended that the present case stands squarely covered by the judgment rendered by a two-Judge Bench of the Hon'ble Supreme Court in *Amresh Kumar Sinha v. State of Bihar, 2023 SCC Online SC 496* and the judgment of the Division Bench of this Court in **LPA No. 1865 of 2015**, titled as '*State of Haryana v. Parmanand*', decision dated 05.03.2025. While placing reliance on the aforesaid decisions, it was argued that the grant of time bound promotional scale/ACP constitutes a financial upgradation and does not amount to a promotion. Such benefits are extended to employees to alleviate stagnation in service and therefore, they cannot be denied merely on the ground that the concerned employee lacks the qualifications for the promotional post.

7. *Per contra*, learned State counsel as well as learned counsel for respondents No.2 and 3 have placed reliance on Rule 8 of the 2016 Rules and contended that a Government employee that does not fulfill the requisite

educational qualification for the promotional post, cannot be granted the benefit of ACP. As per the provisions of the Haryana Municipal Corporation Employees (Recruitment and Conditions) Service Rules, 1998, a Tubewell Operator can be promoted to the post of Tubewell Mechanic only if he fulfills the prescribed qualifications: (i) Matriculate; (ii) Having a Diploma in the trade of Electrical or Mechanical from an Industrial Training Institute; and (iii) Seven years of Experience as a Tubewell Operator.

8. It was submitted that since the petitioners do not fulfill the aforementioned qualifications for their promotion to the next higher post i.e. Tubewell Mechanic, they cannot be granted the benefit of 3rd ACP. While they were granted the 1st and 2nd ACP scales due to a waiver of educational qualification by the State Government vide order dated 04.02.2011, no such relaxation has been granted for Class-III officials for the grant of 3rd ACP Scale. Consequently, the claim of the petitioners was rightly rejected.

9. Reliance has also been placed upon the letter dated 06.06.2017 (Annexure R-2/3) issued by the State Government, whereby it was decided that ACP scales would be granted only to those employees who fulfil the prescribed qualifications and experience requirements under the relevant Government policies and instructions. However, learned counsel for the respondents No.2 and 3 is unable to effectively rebut the reliance placed by the petitioners on the judgment of the Hon'ble Supreme Court in *Amresh Kumar Sinha (supra)* and the judgment of the Division Bench of this Court in *Parmanand (supra)*.

OBSERVATION & ANALYSIS

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

10.1. This Court is of the considered view that the issue involved in the present case is no longer *res integra*. A two-Judge Bench of the Hon'ble Supreme

Court in *Amresh Kumar Sinha (supra)* has observed that the object of ACP is to avoid stagnation. The grant of ACP is not technically a grant of promotion but an increase in the pay scale to the next higher grade retaining the employee on the post held by him. Consequently, it was held that fulfilment of educational qualifications prescribed under the recruitment rules for the purposes of promotion are not necessary for the grant of ACP. The relevant observations of the Hon'ble Supreme Court, speaking through Justice Pankaj Mithal, are reproduced hereunder:

“8. Upon hearing the rival contentions of the parties, the sole question which arises for our reconsideration in these appeals is whether the qualification of graduation prescribed for promotion to the next higher post of Accounts Officer from that of Accounts Clerk is necessary even for the purpose of extending the benefit of ACP.

9. The Bihar Accounts Service Rules, 2000 as notified on 28th March, 2000 vide Rules 17 and 20 read with Schedule I thereof provides for recruitment by way of promotion. The aforesaid Rule 17, inter alia, provides that for promotion on the basis of grade of service, candidates must possess qualifications mentioned in Schedule I which, inter alia, provides that for promotion to Bihar Accounts Service, the minimum educational qualification shall be graduation.

10. At the same time Bihar State Employees Service Condition (Assured Career Progression Scheme) Rules, 2003 vide sub-Rule (5) of Rule 4 lays down that if the rules prescribe passing of the departmental examination or any qualification for promotion that shall also be an essential condition for sanction of benefit under the scheme. In other words, possession of essential qualification prescribed under the rules is necessary for grant of benefit under the scheme, i.e., ACP.

11. It is in view of the above rules, the contention of the State is that until and unless the Accountant Clerks possess the minimum educational qualifications of graduation, they are not entitled to promotion in the grade of Bihar Accounts Service that is the

Accounts Officer.

12. It may be worth noting that the ACP scheme was enforced on the recommendation of the Fifth Central Pay Commission in context with Group C and D employees and it provided monetary benefit to the employees on completion of 12 years and 24 years of regular service who were not able to get promotion. The scheme as such was anti-stagnation and envisages merely placement of the employees in the higher pay scale for the grant of financial upgradation only without grant of actual promotion. The benefit of the ACP as such is like granting non-functional in situ promotion.

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.

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16. In *Union of India and Anr. v. G. Ranjanna and Ors.* reported in (2008) 14 SCC 721, the three-Judges Bench of this Court held that in situ promotions are made to remove stagnation of grade C and grade D employees by giving them certain monetary benefits.

17. It was further observed that fulfilment of educational qualifications prescribed under the recruitment rules for the purposes of promotion are not necessary for non-functional in situ promotion. In other words, educational qualification required for the purposes of promotion is not necessary for the grant of in situ promotion, i.e., only for extending the monetary benefit where there are no promotional avenues and the employees are likely to be stagnated.

18. In the aforesaid case, the employees were working as malis

(Gardeners) and had claimed promotion in the higher pay scale. The Central Administrative Tribunal seized of the original applications observed that the employees cannot claim the scale of the next higher post by way of in situ promotion. On the matter being taken to the High Court by way of a writ petition, the contention of the employees was accepted and it was observed that the object of in situ promotion on non-functional posts, is to ensure that the group C and D employees are not stagnated in the same cadre/pay scale and that they should be provided with certain monetary benefits. **Therefore, the rejection of the claim for such nonfunctional in situ promotion on the ground that the employees do not possess the necessary minimum qualification of matriculation as per the rules is not justified and renders the order erroneous in law.** The view so taken by the Division Bench of the High Court was affirmed by this Court in the above referred Civil Appeals holding that the High Court has correctly analysed the object of the in situ promotion and fixation of pay scales to Group C and D employees to avoid stagnation.

19. **In view of the aforesaid legal position coupled with the fact that the qualification of graduation prescribed is for the promotion to the post of Accounts Officer rather than for the grant of in situ promotion on the non-functional post or for extending the benefit of ACP which is purely and simply in the nature of grant of monetary benefit without actually effectuating any promotion to any higher post, we are of the opinion that the judgment and order of the Division Bench of the High Court impugned in the appeals cannot be sustained.** It is accordingly hereby set aside and that the judgment of the writ court dated 28.11.2017 is restored. The appellants are extended the benefit of ACP, as directed by the writ court.”

(Emphasis added)

11. Reference can also be made to the judgment rendered by the Division Bench of this Court in *Parmanand (supra)* wherein the Court had observed as follows:

“6. **Explicitly, the object of framing the Rules of 1998 as well as the**

Rules of 2008 was to ensure that no Government servant stagnates without any financial upgradation for more than 10 years unless he has already availed 03 financial upgradations in his career. It goes undisputed between the parties that these Rules are applicable to the respondents. The appellants have also not disputed the factum of the completion of requisite service tenure by the respondents for grant of 2nd/3rd ACP Scales, as the case may be. The sole objection, as set-forth by the appellants to deny the above-said benefit to the respondents, is that they had not cleared/passed the departmental test/exam for the post of 'Kanungo'. However, they (appellants) have not denied the fact that some similarly placed 'Patwaris' were granted ACP Scales by exempting them from clearing/passing the departmental test.

7. In *Amresh Kumar Sinha & Ors (supra)*, Hon'ble the Supreme Court has relied upon the observations made by the Three Judges' Bench of the Apex Court in *Union of India & Anr (supra)* and has held that "the qualification of graduation was prescribed for the promotion to the post of Accounts Officer rather than for grant of in-situ promotion on the nonfunctional post or for extending the benefit of ACP which was purely and simply in the nature of grant of monetary benefit without actually effectuating any promotion to any higher post and the appellants were to be extended the benefit of ACP".

8. It is worth-while to mention here that while answering the reference in *Kamlanand Thakur v. The State of Bihar and others, 2025(1) SLR 695*, the Full Bench of Patna High Court has also relied upon the afore-quoted verdict of the Apex Court and has observed as under:-

"48. Thus, the questions stand answered as follows :-

(A.) Rule 157(3)[J] of the Bihar Board's Miscellaneous Rules, 1958, requiring passing of Departmental Accounts Examination for promotion, is not applicable in case of grant of A.C.P. benefits under the A.C.P. Rules, 2003;

(B.) Rule 157(3)[J] of the Bihar Board's Miscellaneous Rules, 1958 is confined to passing of preliminary examination/final examination in Accounts only for the purpose of confirmation,

crossing the efficiency bar and promotion to Selection Grade only and not for regular promotion;

(C.) Rule 4(5) of the A.C.P. Rules, 2003 even though provides that the prescribed requirements and mode of sanction of financial progression under the scheme (A.C.P. scheme) shall be the same which are prescribed under the Recruitment/Service Rules for regular promotion against vacancies and if the Rules/Resolutions prescribe passing of Department Examination or any qualification for promotion, that shall also be an essential condition for sanction of benefit under the scheme will not affect the claim for grant of A.C.P. after completion of twelve/twenty four years of service for the reason that such financial progression under the A.C.P. scheme is only in situ promotion and nothing more. This is even notwithstanding any such requirement of passing any Departmental Examination or acquiring any educational qualification for promotion under the Service/Recruitment/Promotion Rules."

The above-quoted observations, as made by Hon'ble Supreme Court in Amresh Kumar Sinha & Ors (supra) and by the Full Bench of the Patna High Court in Kamlanand Thakur (supra), are fully applicable to the instant appeals and in view of these observations and also the fact that some 'Patwaris', who were similarly placed, have been exempted from passing the afore-referred exam/test and have been granted the benefit of ACP Scales, it is held that the respondents-writ petitioners cannot be deprived of the benefit of ACP Scales on account of their not having cleared/passed the departmental test/ exam for the post of 'Kanungo'.

9. As a sequel to the fore-going discussion and in view of the findings as recorded by learned Single Judge(s), we are of the considered opinion that there is no cogent and valid reason/ground to interfere with the impugned judgments. Resultantly, the appeals in hand, being sans any merit, stand dismissed accordingly. "

(Emphasis added)

12. Adverting to the facts of the present case, admittedly, the petitioners have rendered more than 30 years of regular service. The sole objection, as set-

forth by the respondents to deny the benefit of 3rd ACP scale to the petitioners is that they do not fulfill the prescribed qualification for their promotion to the next higher post i.e. Tubewell Mechanic. In light of the aforesaid legal position, this Court holds that the action of the respondents in denying the benefit of the 3rd ACP scale to the petitioners merely on the ground of lack of qualifications for the promotional post is illegal and contrary to settled law.

CONCLUSION

13. In view of the foregoing discussions, all the captioned writ petitions are allowed. The impugned order dated 05.06.2023 (Annexure P-2) passed by Municipal Commissioner, Faridabad (respondent No.2) hereby stands quashed and set aside. Consequently, the respondents are directed to extend to the petitioners the benefit of the 3rd ACP from the date each of them completed 24 years of regular and satisfactory service, in accordance with the provisions of the Haryana Civil Services (Assured Career Progression) Rules, 2016. The respondents shall also compute and release all consequential monetary benefits arising therefrom within a period of six weeks from the date of receipt of a certified copy of this order.

14. Pending miscellaneous applications, if any, shall also stand disposed of.

15. A photocopy of this order be placed on the file of other connected cases.

(HARPREET SINGH BRAR)
JUDGE

01.07.2026

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No