



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

201

CWP-6490-2001

Date of Decision: **07.04.2026**

Ram Dia Gupta and another

.....Petitioners

VERSUS

Haryana Urban Development Authority and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Jagbir Malik, Advocate for the petitioner (Amicus Curiae).

Mr. Arvind Seth, Advocate for the respondents-HUDA.

HARPREET SINGH BRAR, J. (Oral)

1. The present writ petition has been filed under Article 226 of the Constitution of India, seeking issuance of an appropriate writ, order or direction in the nature of mandamus directing the respondents to grant the benefit of additional increments and higher standard pay scales to the petitioners upon completion of 8/18 years of service, by counting their work-charged service rendered prior to regularization towards the total qualifying service from the dates of their initial appointment, without any further delay. The petitioners further seek extension of the same benefits as



have been granted in CWP No. 10933 of 1997 and to similarly situated employees of HUDA, wherein work-charged service has been counted for the said purpose. A further prayer has been made for grant of Assured Career Progression (ACP) scales to the petitioners in terms of the Haryana Civil Services (Assured Career Progression) Rules, 1998.

PETITIONERS' CONTENTION

2. Learned counsel for the petitioners, *inter alia*, submits that the petitioners were initially appointed on a work-charged basis on 23.11.1977 and 04.03.1976, respectively, and their services were subsequently regularized on 20.10.1988 and 24.02.1984, respectively. It is contended that vide instructions dated 07.08.1992 (Annexure P-1), the Government of Haryana decided to grant additional increments to Group 'C' and 'D' employees on completion of 8/18 years of regular satisfactory service, which instructions were duly adopted by the respondent-authority. Thereafter, vide instructions dated 08.02.1994 (Annexure P-2), higher standard pay scales were introduced on completion of 10/20 years of service. Further, the Government of Haryana, vide instructions dated 07.01.1998, introduced the Assured Career Progression (ACP) Scheme w.e.f. 01.01.1996, granting benefits on completion of 10/20 years of service.

2.1 The primary grievance of the petitioners in the present writ petition is that their work-charged service has not been counted towards qualifying service for the purpose of grant of additional increments, higher



standard pay scales, and ACP benefits. It is further submitted that similarly situated employees had approached this Court by way of CWP No. 10933 of 1997, seeking identical relief, and the said writ petition was allowed. In compliance of the said judgment, the concerned employees were granted the aforesaid benefits after counting their work-charged service, as is evident from Annexure P-3.

2.2 It is also contended that the petitioners have submitted several representations, followed by a legal notice, however, no action has been taken by the respondents. Learned counsel further places reliance upon the judgment passed by the Division Bench of this Court in *Parmod Kumar and others versus State of Haryana and others (CWP No. 10984 of 2001, decided on 22.01.2002)*, in support of the claim of the petitioners.

RESPONDENTS CONTENTION

3. On the other hand, learned counsel for the respondents—authority, while opposing the claim of the petitioners, places reliance upon the instructions dated 07.08.1992 (Annexure P-1) issued by the Government of Haryana and submits that a bare perusal thereof makes it abundantly clear that the benefit of additional increments is admissible to Group ‘C’ and ‘D’ employees only upon completion of 8/18 years of regular satisfactory service. Learned counsel further submits that the aforesaid instructions do not envisage or permit counting of past work-charged service for the purpose of grant of additional increments or other consequential benefits. It



is, thus, argued that the claim of the petitioners for counting their work-charged service towards qualifying service is misconceived and dehors the applicable policy framework. Learned counsel further places reliance upon the judgment passed by Hon'ble Supreme Court in ***State of Haryana Versus Sita Ram and others, 2013(16) SCC 677*** to support his case and prays for dismissal of the present writ petition.

OBSERVATIONS AND ANALYSIS

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

5. Reliance can be placed upon the judgment passed by the Hon'ble Supreme Court in ***Sita Ram*** (supra), relevant extract thereof may reads as under:-

21. *In Punjab State Electricity Board v. Jagjiwan Ram (2009) 3 SCC 661, this Court considered a question substantially similar to the one raised in these appeals. The Punjab State Electricity Board introduced a scheme for giving time-bound promotional scales/increments on completion of 9/16/23 years of regular service. The scheme was circulated vide office order dated 23-4-1990. The respondents, who were engaged as work-charged employees between 1971 and 1993 and were appointed on regular basis between 1979 and 1999, filed writ petitions for grant of promotional scales/increments by contending that their work-charge service should be added to the regular service. The Division Bench of the High Court accepted their plea by relying upon the order passed in State of Haryana v. Ravinder Kumar (2013) 16 SCC 695.*



22. After noticing distinction between work-charged establishment and regular establishment as also the judgments in State of Haryana v. Haryana Veterinary and AHTS Assn. (2000) 8 SCC 4 and State of Punjab v. Ishar Singh (2002) 10 SCC 674, the Division Bench observed:

A reading of the scheme framed by the Board makes it clear that the benefit of time-bound promotional scales was to be given to the employees only on their completing 9/16 years' regular service. Likewise, the benefit of promotional increments could be given only on completion of 23 years' regular service. The use of the term 'regular service' in various paragraphs of the scheme shows that service rendered by an employee after regular appointment could only be counted for computation of 9/16/23 years' service and the service of a temporary, ad hoc or work-charged employee cannot be counted for extending the benefit of time-bound promotional scales or promotional increments. If the Board intended that total service rendered by the employees irrespective of their mode of recruitment and status should be counted for the purpose of grant of time-bound promotional scales or promotional increments, then instead of using the expression '9/16 years' regular service' or '23 years' regular service', the authority concerned would have used the expression '9/16 years' service' or '23 years' service'. However, the fact of the matter is that the scheme in its plainest term embodies the requirement of 9/16 years' regular service or 23 years' regular service as a condition for grant of time-bound promotional scales or promotional increments as the case may be."

23. The order passed in Ravinder Kumar case was distinguished and it was held that the same cannot be treated as

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precedent for other cases. This is evinced from para 22 of the judgment, which is extracted below:

The order passed by this Court in Ravinder Kumar is clearly distinguishable. In that case, counsel appearing for the State had conceded that the period during which an employee had worked on work-charged basis is counted for the purpose of grant of increment as well as for computation of qualifying service for pension. In view of his statement, the Court held that there is no reason why such service should not be counted for the purpose of giving additional increment on completion of 8/12 years' service and higher scale on completion of 10/20 years' service. The order does not contain any discussion on the issue whether the work-charged service can be equated or clubbed with regular service for grant of service benefits admissible to regular employees. Therefore, the same cannot be treated as laying down any proposition of law which can be treated as precedent for other cases.

(emphasis supplied)

24. *We reiterate that even though Ravinder Kumar case (2013) 16 SCC 695 was delinked from the batch of matters decided vide judgment in State of Haryana v. Haryana Veterinary and AHTS Assn. (2000) 8 SCC 4 and was independently decided, the same cannot be relied upon for grant of benefit of ACP scales under the 1998 Rules or time-bound promotional scales or additional increments by counting work charge or ad hoc service where the rules/scheme provide that the employee must have rendered regular service for a particular period.*

6. Further, reliance can be placed upon the judgment rendered by
a Two Judge Bench of the Hon'ble Supreme Court in ***Punjab State***



Electricity Board and others Versus Jagjiwan Ram 2009 INSC 160, which while speaking through Justice G.S. Singhvi observed as under:

*“14. The order passed by this Court in Ravinder Kumar's case is clearly distinguishable. In that case, counsel appearing for the State had conceded that period during which an employee had worked on work charged basis is counted for the purpose of grant of increment as well as for computation of qualifying service for pension. In view of his statement, the Court held that there is no reason why such service should not be counted for the purpose of giving additional increment on completion of 8/12 years service and higher scale on completion of 10/20 years service. The order does not contain any discussion on the issue whether the work charged service can be equated or clubbed with regular service for grant of service benefits admissible to regular employees. Therefore, **the same cannot be treated as laying down any proposition of law which can be treated as precedent for other cases.***

7. Insofar as the claim of the petitioners for grant of higher standard pay scale and promotional increments by counting their work-charged service, on the basis of benefits extended to similarly situated employees in terms of office order (Annexure P-3), is concerned, this Court finds that the stand of the respondents is that such benefits were granted *dehors* the applicable Rules and instructions. Any benefit erroneously extended to certain employees, while interpreting the scheme framed by the employer, cannot be made a basis for claiming similar relief by other employees, in disregard of the law laid down by the Hon’ble Supreme Court in the judgments referred to hereinabove.



8. Moreover, A two Judge bench of the Hon'ble Supreme Court in *State of Orissa vs. Mamata Mohanty (2011)3 SCC 436* has clarified that Article 14 of the Constitution of India does not perpetuate negative equality. Speaking through Dr. Justice B.S. Chauhan, the following was held:

"It is a settled legal proposition that Article 14 is not meant to perpetuate illegality and it does not envisage negative equality. Thus, even if some other similarly situated persons have been granted some benefit inadvertently or by mistake, such order does not confer any legal right on the petitioner to get the same relief. [Vide State (UT of Chandigarh) v. Jagjit Singh; Yogesh Kumar v. State (NCT of Delhi); Anand Buttons Ltd. v. State of Haryana; K.K.Bhatia v. State of M.P.; Krishan Bhatt v. State of J & K; State of Bihar v. Upendra Narayan Singh; Union of India v. Kartick Chandra Mondal.]"

10. Similarly the Hon'ble Supreme Court in Union of India v. M. K. Sarkar, (2010)2 SCC 59 has laid down that "Article 14 is a positive concept and cannot be enforced in a negative manner. Irregularity and illegality cannot be perpetuated on the ground that illegal benefits have been extended to others". Thus, if some similarly situated persons have been granted some benefit by mistake, such an order does not confer any legal right on the petitioner to stake claim. ..."
(emphasis added)

9. Article 14 of the Constitution of India, embodies a positive guarantee of equality grounded in legality and cannot be invoked to validate or replicate actions taken in contravention of governing rules. A benefit granted due to error, inadvertence, or concession dehors the applicable scheme does not create an enforceable right in favour of others, nor does it acquire the status of a binding standard for future claims. The doctrine of negative equality mandates that a litigant cannot invoke Article 14 to



demand the repetition of an illegal or irregular act, nor can a court compel an authority to continue a wrong or extend a benefit that was granted dehors the law. Any benefit erroneously granted does not create a binding precedent, and the same cannot be relied upon as a basis for claiming identical relief, as equality in illegality is not a recognized right under the constitutional framework. Entitlement must, therefore, be tested strictly on the anvil of lawful rules and valid rights, and not on the basis of irregular or unauthorized advantages extended to others.

10. In view of the above, this Court finds no merit in the present petition. The same is accordingly dismissed, however, with no order as to costs.

11. Before parting with the present matter, this Court places on record its appreciation for the valuable assistance rendered by Mr. Jagbir Malik, learned *Amicus Curiae*, which has aided the Court in effectively adjudicating the issues involved in the present case.

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

(HARPREET SINGH BRAR)
JUDGE

07.04.2026

Puneet Chawla

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No