
(2019) 12 P&H CK 0023

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 1654 Of 2019 (O&M)

Satish Chander

APPELLANT

Vs

State Of Haryana And Another

RESPONDENT

Date of Decision : 02-12-2019

Acts Referred:

Haryana Civil Services (Assured Career Progression Scheme) Rules, 2008 — Rule 18

Citation : (2019) 12 P&H CK 0023

Hon'ble Judges : Ravi Shanker Jha, CJ;Rajiv Sharma, J

Bench : Division Bench

Advocate : Nishant Arya

Final Decision : Dismissed

Judgement

Ravi Shanker Jha, CJ

This appeal is filed by the appellant being aggrieved by the order dated 02.07.2019 passed in Civil Writ Petition No. 9558 of 2013 whereby the petition filed by the petitioner against the order dated 29.11.2012 passed by the respondents' authorities denying the benefit of further fixation of pay and increment on promotion from the post of Technical Assistant to the post of Assistant Geologist was dismissed.

Brief facts giving rise to the petition are that the petitioner was working on the post of Technical Assistant which is a feeder cadre for the post of Assistant Geologist. Apparently, under the Haryana Civil Services (Assured Career Progression Scheme) Rules, 2008, the petitioner had already been granted two ACPs prior to his promotion on the post of Assistant Geologist. It is also an undisputed fact that the petitioner on account of grant of ACPs was already drawing the pay which was identical to the promotional post of Assistant Geologist. The petitioner on being promoted to the post of Assistant Geologist filed a representation seeking an additional increment on account of discharging higher responsibilities which was denied by the authorities vide impugned order

dated 29.11.2012 which was assailed by the appellant before this Court by way of writ petition.

Learned Single Judge by taking into consideration the provisions of Rule 18 of the Haryana Civil Services (Assured Career Progression Scheme) Rules, 2008 and the note appended therewith has rejected the claim of the appellant. Being aggrieved by this order, the appellant has filed this appeal.

Learned counsel for the appellant submits that the grant of ACP is not actual promotion and therefore, no higher responsibility of the promotional post is conferred upon an employee on grant of ACP. It is submitted that when an employee is actually promoted to the higher post and is required to discharge higher responsibilities, the employee is entitled to further increment in view of the requirement of higher responsibilities. Learned counsel for the appellant further submits that while it is undisputed that the appellant was drawing identical pay of the promotional post of Assistant Geologist on account of grant of ACP, however, as he was not actually required to discharge higher responsibilities of promotional post, while taking the benefit of ACP, an additional increment was required to be given to the appellant on his actual promotion to discharge higher responsibilities of the post of Assistant Geologist. Learned counsel for the appellant submits that the learned Single Judge has failed to appreciate this aspect while dismissing the writ petition. Hence this appeal.

Having heard learned counsel for the appellant and perusing paragraphs 17 and 18 of the impugned order passed by the learned Single Judge, it is apparent that the learned Single Judge has reproduced the provisions of Rule 18 of the Haryana Civil Services (Assured Career Progression Scheme) Rules, 2008 as well as the Note appended therewith. A perusal of the note makes it clear that while no higher responsibility is conferred or presumed to be conferred upon an employee on placement in the ACP pay structure, however, while fixing the pay on account of ACP, a presumption of higher responsibility would be extended. The note further clarifies that in case a person who is availing the benefit of ACP and is subsequently promoted and on promotion is found to be drawing the same pay under the ACP i.e. identical to the promotional post, his pay will not be fixed again in the functional pay structure of the promotional post but he will continue to draw his salary at the same stage and his date of increment will also continue to be the same as before.

Learned Single Judge taking the aforesaid note into consideration has rejected the claim of the appellant. We do not find any illegality or perversity in interpretation of the Rules by the learned Single Judge warranting interference in the impugned order. The appeal filed by the appellant, being meritless is, accordingly dismissed.