



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

**Reserved on : 04.02.2025
Date of Decision: 05.03.2025**

- 1.** LPA No.1865 of 2015 (O&M)
State of Haryana and others ...Appellants
Versus
Parmanand and others ...Respondents
- 2.** LPA No.584 of 2017 (O&M)
State of Haryana and others ...Appellants
Versus
Kalu Ram and others ...Respondents
- 3.** LPA No.965 of 2024 (O&M)
State of Haryana and others ...Appellants
Versus
Bhim Singh ...Respondent
- 4.** LPA No.882 of 2017 (O&M)
State of Haryana and another ...Appellants
Versus
Rampal Patwari and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Argued by:- Ms. Shruti Jain Goyal, Senior DAG, Haryana
for the appellants.



Ms. Anita Balyan, Advocate
for the respondents in LPA No.1865 of 2015,
LPA No.965 of 2024 & LPA No.882 of 2017.

None for respondent No.1 in LPA No.584 of 2017.

Mr. B.S. Beniwal, Advocate
for respondent No.2 in LPA No.584 of 2017.

Mr. Pankaj Mehta, Advocate
for respondent No.3 in LPA No.584 of 2017.

Meenakshi I. Mehta, J.

All the four above-captioned Letters Patent Appeals are being taken up together for discussion and adjudication as similar questions of law and facts are involved therein.

2. As per the brief common factual-matrix culminating in the filing of the present appeals, respondents-Parmanand, Preet Singh and Dalbir Singh in *LPA No.1865 of 2015* (writ-petitioners in *CWP No.15880 of 2013*) and respondents No.1 to 3-Kalu Ram, Subhash Chander and Dalip Singh in *LPA No.584 of 2017* (writ-petitioners in *CWP No.21423 of 2014*) were, initially, employed with the HSMITC but later-on, they were absorbed as ‘Patwaris’ in the Revenue Department whereas respondent-Bhim Singh in *LPA No.965 of 2024* (writ-petitioner in *CWP No.18715 of 2018* and non-applicant/petitioner in *RA-CW No.277 of 2023*) and the respondents named Rampal, Prem Singh, Naresh Kumar, Rajbir Singh and Balwan Singh in *LPA No.882 of 2017* (writ-petitioners in *CWP No.23074 of 2010*) were appointed as ‘Patwaris’ in the Revenue Department. The afore-named writ-petitioners (here-in-after to be referred as ‘the respondents’) had preferred the above-referred writ-petitions for seeking the issuance of the writ in the nature of mandamus for directing the appellants-official respondents (here-in-after to be referred as ‘the appellants’)



to grant 2nd/3rd ACP Scales to them, while averring that they had completed the requisite tenure, i.e 20/30 years, of service for this purpose and they also prayed for issuing a writ in the nature of certiorari for setting-aside the orders passed by the appellants for rejecting their (respondents') afore-said claim. In their separate Written-Replies/Affidavits filed in the above-mentioned writ-petitions, the appellants contested the claim of the respondents, *inter-alia*, on the ground that they (respondents) had not cleared/passed the departmental test/exam for promotion to the post of 'Kanungo', as required under Rule 5(3)(b) of the Haryana Civil Services (Assured Career Progression) Rules, 1998 (for short 'the Rules of 1998') and Rule 8(b) of the Haryana Civil Services (Assured Career Progression) Rules, 2008 (for short 'the Rules of 2008'), so as to become eligible for the grant of benefit of the ACP Scales and therefore, their afore-referred claim has rightly been declined. Learned Single Judge(s) allowed **CWP Nos.15880 of 2013** and **23074 of 2010** vide the common impugned judgment dated 24.07.2015 and **CWP No.21423 of 2014** vide the impugned judgment dated 30.05.2016 and disposed of **CWP No.18715 of 2018** in terms of the judgment rendered in **Prithvi Singh vs. State of Haryana and others** (CWP No.10051 of 2013) on 27.04.2016 which had been decided in terms of the above-described judgment as passed in **CWP No.23074 of 2010** and also dismissed **RA-CW No.277 of 2023**, arisen out of the impugned judgment dated 27.04.2016, vide the order dated 10.08.2023 and feeling aggrieved therefrom, the appellants have chosen to prefer the instant intra-Court appeals.

3. We have heard learned State counsel for the appellants and learned counsel for the respondents (writ-petitioners) in the present appeals and have also perused the files thoroughly.

4. Learned State counsel for the appellants has referred to Rule 5(3)(b) of the Rules of 1998 and Rule 8(b) of the Rules of 2008 and has



contended that both these Rules envisage the fulfilment of the pre-requisite of passing the departmental test for promotion to the next post in departmental hierarchy, for becoming eligible for the grant of benefit of ACP Scales and the respondents-*Patwaris* had not passed/cleared the afore-said departmental test for the post of '*Kanungo*' and therefore, they are not entitled to the above-mentioned benefit but however, learned Single Judge(s) did not take the afore-discussed pre-requisite and the factum of its non-fulfilment by the respondents, into consideration at the time of granting the relief of ACP Scales to them vide the above-referred impugned judgments and therefore, these judgments are not legally sustainable and hence, the same deserve to be set-aside.

5. Per-contra, learned counsel for the respondents have argued that the Rules of 1998 and 2008 qua the grant of ACP Scales to the Government employees had been framed to provide succour to them in the eventuality of stagnation in their career on account of non-availability of the vacancies of the promotional posts and thus, the pre-requisite of passing the departmental test for promotion, for becoming eligible for the grant of afore-mentioned benefit, is arbitrary and unjustified. They have, further, contended that even otherwise, several similarly placed '*Patwaris*' have already been extended the relief of ACP Scales, by granting them exemption from passing the above-said test for the post of '*Kanungo*' and it being so, it is quite clear that learned Single Judge(s) have rightly granted the afore-claimed relief to the respondents vide the impugned judgments. To buttress their contentions, they have placed reliance upon the verdicts rendered by the Apex Court in *Union of India & Anr versus G. Rajanna & Ors, 2008(14) SCC 721* and *Amresh Kumar Sinha & Ors Etc versus The State of Bihar & Ors Etc, 2023 SCC Online SC 496*.

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 non-functional 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 versus 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.

10. All the pending miscellaneous applications also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

05 March, 2025

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Whether speaking/reasoned: Yes

Whether Reportable: Yes