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

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**CWP-10930-2018 (O&M).
Date of Decision: 24.07.2025.**

RENU AGGARWAL

... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. A.K. Walia, Advocate,
(Through Video Conference)
for the petitioner.

Mr. Vivek Chauhan, Addl. A.G. Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the instant writ petition is to the order dated 30.03.2018 (Annexure P-14), whereby the petitioner's claim for the grant of second Assured Career Progression (ACP) and third ACP on completion of 11 years and 17 years of qualifying service, respectively, has been declined. The petitioner also impugns the seniority list issued on the same date. Challenge is on the ground that the seniority list erroneously accords

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precedence, based on the ranking assigned by the recruiting agency rather than the actual length of service rendered by an employee and is thus in violation of the service rules.

2 Learned counsel for the petitioner has urged that the petitioner, having completed her Bachelor of Dental Surgery (BDS) from BIDS, Patna in 1996, was appointed on regular basis as a Dental Surgeon in the Health Department, Government of Haryana, on 18.12.1998. Pursuant to her selection, she submitted her joining report on 21.12.1998 and has since then remained in continuous and uninterrupted service alongside respondent No.5, Dr. Madhav Singh. It is submitted that while the petitioner was appointed under the Ex-Servicemen (ESM) category, respondent No.5 was selected under the general category and joined service only on 24.12.1998 i.e. subsequent to the petitioner.

3 It is submitted that pursuant to Notification dated 16.05.2007, the ESI Wing of the Health Department was bifurcated and placed under the newly constituted Directorate of ESI Healthcare, Haryana, operating under the administrative control of the Labour Department. Both, the petitioner as well as respondent No.5 opted for absorption in the new Directorate. Owing to the absence of separate service rules for the ESI Health Care cadre, it was resolved that the service conditions of such employees would continue to be governed by the rules applicable to the Haryana Civil Medical Services.

4 Counsel for the petitioner submits that, under the governing rules, the grant of Assured Career Progression (ACP) benefits is premised upon the continuous length of service and not merely on seniority determined

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by selection ranking. Notably, ACP benefits are to be extended to the top 20% of doctors based on the eligibility criteria. Respondent No.5 has been granted the 2nd ACP w.e.f. 01.09.2012 vide order dated 21.09.2016, and subsequently the 3rd ACP w.e.f. 01.01.2016 upon completion of 17 years of service. It is contended that since the petitioner entered into service prior to respondent No.5 and has remained in continuous employment, she is senior in terms of length of service and, therefore, entitled to the ACP benefits at par with or prior to respondent No.5. The petitioner asserts that the decision to deny her such benefits, while granting the same to a junior officer, is arbitrary, discriminatory, and contrary to the principles governing the ACP Scheme.

5 Learned counsel appearing on behalf of the respondent-State however submits that, in compliance with the directions issued by this Court vide order dated 10.04.2024, an affidavit dated 17.07.2024 has been filed through the Senior Medical Officer. It is pointed out that, as per the said affidavit, the recommendations pertaining to the appointments in question were forwarded by the Haryana Public Service Commission vide communication No. RG/3/97/4677 dated 22.10.1998 and the comparative position of the petitioner vis-à-vis respondent No.5 is tabulated as under: -

<i>Description</i>	<i>Respondent No.5</i>	<i>Petitioner</i>
<i>Submitted option for absorption in</i>	<i>10.07.2001</i>	<i>18.01.2008</i>

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<i>ESI Health Care, Haryana.</i>		
<i>Joining in Health Department</i>	<i>24.12.1998</i>	<i>21.12.1998</i>
<i>Absorption in ESI Health Care, Haryana</i>	<i>01.01.2008</i>	<i>19.12.2008</i>
<i>Seniority in Health Department.</i>	<i>Sr.No.138</i>	<i>Sr. No.172</i>
<i>Recommendation in the recommendation list sent by HPSC</i>	<i>Sr. No.44</i>	<i>Sr. No.5 under Ex- Servicemen Category.</i>

6 It is submitted that, in view of the above, respondent No.5 was placed at Serial No.138, whereas the petitioner was placed at Serial No.172 in the recommendation letter dated 22.10.1998 issued by the Haryana Public Service Commission. Accordingly, respondent No.5 was senior to the petitioner in the seniority list maintained by the Health Department at the relevant time. Besides, the respondent No.5 submitted his option for absorption in service in ESI Healthcare much prior to the option submitted by the petitioner and joined the new department earlier.

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7 It is further noteworthy that the aforesaid factual position, as reflected in the affidavit dated 17.07.2024 filed on behalf of the respondent-State, has not been controverted by the petitioner by way of any rebuttal or counter-affidavit despite ample opportunity and passage of sufficient time.

8 Learned State counsel further contends that the petitioner's submission seeking to claim seniority over respondent No.5 solely on the ground that she joined service in Health Department on 21.12.1998, while respondent No.5 joined on 24.12.1998, is wholly untenable in law and fact. It is submitted that seniority is to be determined not merely by date of joining but by the order of merit in the select list issued by the Haryana Public Service Commission, wherein respondent No.5 was placed higher than the petitioner. It is also contended that the final seniority list was duly published and circulated by the Department in the year 2003, and remained unchallenged by the petitioner for nearly fifteen years. The instant attempt to question the same by filing the present writ petition in the year 2018 is clearly belated and barred by delay and laches and as such, is liable to be rejected on this ground alone.

9 I have heard the learned counsel appearing for the respective parties and have gone through the documents appended along with the present petition.

10 First adverting to the challenge raised by the petitioner to the final seniority list circulated on 30.09.2003. It stands admitted and undisputed that respondent No.5 was placed higher in the order of merit than the petitioner in the recommendation list sent by the Haryana Public Service

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Commission. Rule 11 of the Haryana Civil Medical (Group-A) Rules, 2014, clearly provides that seniority inter se the members of the service shall ordinarily be governed by the length of service; however, where the order of merit has been determined by the Commission at the time of recruitment, such merit position shall prevail and shall not be disturbed while fixing seniority. Hence, the petitioner's contention that seniority must be determined on the basis of length of service alone overlooks the specific proviso to Rule 11, which mandates merit as determined by the Commission, to remain binding for determining seniority. Thus, the argument advanced on behalf of the petitioner is wholly untenable and merits rejection. Moreover, the seniority list in question was finalised and circulated as far back as on 30.09.2003. The present writ petition, having been instituted only in the year 2018, suffers from inordinate and unexplained delay. Considering that both the 2nd as well as 3rd ACP had been granted prior to the institution of the present petition, on the strength of the same seniority list and petitioner had no grievance against the same. It is trite law that stale claims and challenges raised after an inordinate lapse of time ought not to be entertained. Much water has indeed flown in the intervening period and the rights of others have crystallised. In view of the above, this Court finds no justification to entertain the belated challenge to the seniority list. Accordingly, the writ petition, to the extent it assails the seniority list dated 30.09.2003, is liable to be and is hereby dismissed on the ground of delay and laches as well as on merits.

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11 Now adverting to the next limb of the petitioner's submission, wherein it is contended that the benefit of the Assured Career Progression (ACP) Scheme ought to be conferred solely on the basis of continuous length of service, and that seniority as determined in the order of merit should be rendered inconsequential. This Court is unable to countenance such a proposition.

12 It is well settled that the grant of ACP is a scheme of financial upgradation introduced to mitigate stagnation in service and is to be governed strictly in accordance with the terms and conditions stipulated under the relevant government policy and service rules applicable to the cadre. In the present case, the petitioner herself concedes that no separate service rules for the ESI Healthcare cadre have been notified and that, in the interim, the rules applicable to the Haryana Civil Medical Services are to govern their service conditions. As per the applicable rules, it is not merely the continuous length of service that governs entitlement to ACP, but the same is extended to officers based on a combination of eligibility, availability of posts in the higher scale, and other considerations including inter se seniority. The petitioner, having been placed lower than respondent No.5 in the original order of merit prepared by the Public Service Commission and the consequent seniority list, cannot claim precedence solely on the basis of a prior date of actual joining, more particularly when the rules do not envisage such displacement of merit-based seniority. Furthermore, it is not the case of the petitioner that any relaxation, exemption, or deviation from the rules has been granted in favour of respondent No.5. In fact, the benefits conferred

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upon respondent No.5 are in strict consonance with the rules and seniority determined long back. Thus, the contention of the petitioner that the ACP benefit ought to have been extended to her in precedence to respondent No.5 solely on the basis of her alleged longer continuous service is devoid of merit and cannot be sustained in law or on facts.

13 The instructions dated 06.08.2012, issued by the Government of Haryana under Rule 17 and Rule 19 of the Haryana Civil Services (Revised Pay) Rules, 2008, read with Rule 26 and Rule 28 of the Haryana Civil Services (Assured Career Progression) Rules, 2008, have also been carefully examined by this Court. These provisions contemplate the grant of Assured Career Progression (ACP) on completion of 11 and 17 years of service, subject to the condition that such benefit shall be limited to 25% of the sanctioned cadre posts.

14 Learned counsel for the petitioner has strenuously argued that since the ACP Rules prescribe completion of 11 years of actual service as the qualifying criterion, and the petitioner had undisputedly completed such service prior in time to respondent No.5, she ought to have been included within the 25% of cadre posts eligible for such financial upgradation. While this submission prima facie appears plausible, the Court is constrained to note that the benefit under the ACP scheme is not automatic or solely contingent on the chronological completion of service. The instructions and rules governing ACP clearly envisage a selection within the limited quota of 25% of cadre posts, thereby necessarily implying that other objective criteria, including inter se seniority as already determined, would govern the

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prioritisation amongst the eligible officers. Thus, while length of service is a prerequisite, it is not the sole determinant. The comparative seniority, as established by the Haryana Public Service Commission and affirmed in the seniority list dated 30.09.2003, wherein respondent No.5 stands higher than the petitioner, continues to hold the field and governs such selection.

15 This Court finds that the argument advanced by learned counsel for the petitioner is premised upon a strained and coloured interpretation of the applicable rules and instructions. The benefit of ACP on completion of 11 and 17 years of service, limited to 25% of the cadre posts, must necessarily be considered in the proper context, that is, of identifying who amongst the eligible officers qualify to be brought within that limited bracket. Undisputedly, such identification is not governed solely by the length of service or the date of joining, but is determined primarily with reference to inter se seniority. It is evident that the intent of the respondent-State in framing and implementing the ACP policy was to extend such financial benefits, within the restricted 25% cadre quota, to those officers who are senior and have completed the requisite number of years in service. The prescription of a cap, namely, 25% of the cadre necessarily stipulates a process of comparative evaluation amongst eligible officers, wherein seniority assumes precedence. To accept the petitioner's contention that she ought to be preferred merely because joined service two or three days prior to respondent No.5, despite being lower in the merit list prepared by the Haryana Public Service Commission, would amount to unsettling the applicable legal regime. Such a dissection would effectively result in

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rewriting the rule by substituting the criterion of seniority with that of chronological joining, thereby affording an unintended and inequitable advantage to the petitioner. Furthermore, the process of identification of the 25% cadre strength, to whom the benefit of ACP is to be extended, has not been assailed by the petitioner. In the absence of any challenge to such selection criteria, it is not open to the petitioner to now argue for a reclassification on the basis of a speculative distinction based on date of joining alone. Accepting such a submission would run contrary to settled service jurisprudence. It would also open the floodgates for uncertainty and arbitrariness, potentially incentivising delays in issuance or acceptance of appointment letters, and thereby disturbing the merit-based system of seniority. This Court is therefore of the considered opinion that the petitioner's argument, seeking complete delinking of seniority from the grant of ACP benefits, is legally untenable and must be rejected.

15 The writ petition, having no merits, is consequently dismissed.

July 24, 2025.

raj arora

(VINOD S. BHARDWAJ)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No