

CWP-8499-2023

2025:PI II IC: 120333



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

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CWP-8499-2023(O&M)

Date of Decision: **September 15, 2025**

Kamla Chaudhary

.....Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Rajat Mor, Advocate for the petitioner.

Mr. Arun Singla, AAG, Haryana.

HARPREET SINGH BRAR, J. (Oral)

1. The present writ petition has been filed under Article 226/227 of the Constitution of India with a prayer for issuance of an appropriate writ or order in the nature of mandamus directing the respondents to release the retiral benefits including pension etc. along with interest @ 18% per annum from the date of retirement till its actual payment. Further for issuance of writ in the nature of certiorari for quashing the impugned show cause notice dated 09.08.2022 (Annexure P-2) and all the subsequent proceedings arising therefrom.



CONTENTIONS

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was appointed as steno typist on 16.10.1986. The service conditions of the petitioner were governed by the Haryana State Agricultural Marketing Board Services Rules 1974 as amended from time to time. First ACP was granted to the petitioner after completion of 10 years of satisfactory service w.e.f. 01.11.1996, second ACP was granted to the petitioner on completion of 20 years of satisfactory service w.e.f. 01.11.2006 and third ACP was granted to the petitioner w.e.f. 04.03.2014. The petitioner retired from the post of steno typist on 31.05.2022 after performing duties on the same post for the last 35 years 7 months and 8 days. Subsequent to the petitioner's retirement, all three ACP benefits have been sought to be withdrawn through a show cause notice, on the ground that the petitioner had not cleared the departmental type test. The petitioner has issued a reply to the show cause notice.

3. He further submits that the requirement of clearing departmental type test was only for the purposes of promotion. Further nothing is provided therein that the same would be applicable for grant of ACP in any of the notifications. As per decision taken by the Board of Directors in the meetings held on 06.07.2018 and 25.10.2018 vide agenda item No.23 and 9 respectively, all the Clerks, Care takers, Store Keepers, Arrival Recorders etc. of the market committees promoted/appointed prior to 04.01.2008 i.e. from the date of notification of HSAM Board Service



Rules, 2008 and the officials appointed in the year 2008 under HSAMB Service Rules, 1974 are exempted from condition of passing type test. Admittedly, the petitioner was appointed on 24.10.1986 and the passing of type test for the purposes of withdrawing benefits of ACPs cannot be pressed against the petitioner. During the entire service record, the benefit in question was never sought to be withdrawn as necessary relaxation had already been given in the case of the petitioner.

4. He further contends that petitioner is entitled to the interest on the delayed amount towards retiral dues in terms of the judgment rendered by a Full Bench of this Court in *A.S. Randhawa Supg. Engineer (Retd.) vs. State of Punjab 1998 (1) SCT 343* wherein it was opined that disbursement of pension and other benefits payable at retirement must be done in a timely manner. Any delay over a period of two months, qua the said disbursement would entitle the retired employee to claim interest on the amount due. Speaking through Justice N.K. Sodhi, the following was held:

*"9. Since a Government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retiree in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in *M. Padmanabhan Nair's case (supra)*. If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement. Again, as to what should be the rate of interest, it should, in our view, be generally 12% unless the*



circumstances of a particular case warrant the payment of a higher rate which may extend to even 18%.”(emphasis added)

Reliance in this regard may also be placed on the judgments rendered by the Hon’ble Supreme Court in *S.K. Dua vs. State of Haryana (2008) 3 SCC 44* and *State of Kerala vs. M. Padmanabhan Nair (1985) 1 SCC 429*.

5. *Per contra*, learned counsel for the respondent(s) submits that the petitioner had herself furnished an undertaking to the effect that any excess payment, if found, could be recovered by way of adjustment against future payments due to her or otherwise. However, learned counsel was unable to controvert the judgments relied upon by the petitioner.

OBSERVATION & ANALYSIS

6. I have heard the submissions made by learned counsel for the petitioner as well as respondent(s) with their able assistance.

7. The question of whether ACP benefits can be withdrawn on the ground that the departmental test for promotion was not cleared is no longer *res integra*. A Two-Judge Bench of the Hon’ble Supreme Court in *Amresh Kumar Singh v. State of Bihar, 2023 SCC OnLine SC 496* relied upon observations made by Three-Judge Bench of the Hon’ble Apex Court in *Union of India v. G. Ranjanna (2008) 14 SCC 721* and held as follows:

“14. The object and purpose of ACP/MACP Scheme has been reiterated by this Court in Union of India v. C.R. Madhava Murthy, (2022) 6 SCC 183, as one to relieve the frustration on account of stagnation and it does not involve actual grant of promotional post



but merely monetary benefits in the form of next higher grade subject to fulfilment of qualifications and eligibility criteria.

15. *In sum and substance, both ACP and MACP Schemes are schemes devised with the object of ensuring that the employees who are unable to avail of adequate promotional opportunities, get some relief in the form of financial benefits. Accordingly, the schemes provide for regular financial upgradation on completion of 12-24 years and 10-20-30 years of service without promotion. They are incentive schemes for the employees who complete a particular period of service but without getting promotion for lack of promotional avenues. The effect of the schemes must be judged keeping in view the object and the purport of the scheme.*

16. *In Union of India v. G. Ranjanna 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.

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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 supplied)



8. The Division Bench of this Court, in *LPA No. 1865 of 2015 (O&M)* titled *State of Haryana and others v. Parmanand and others*, dealt with a controversy akin to the present matter. Relying upon the aforementioned judgments of the Hon'ble Apex Court as well as the Full Bench judgment of the Patna High Court in *Kamlanand Thakur v. State of Bihar and others, 2025 (1) SLR 695*, the Division Bench held that the respondents-writ petitioners therein could not be denied the benefit of ACP merely on the ground of not having cleared the departmental test for the post of 'Kanungo.'

9. In view of the aforesaid legal position, this Court is of the opinion that the departmental type test was only for the purposes of promotion, whereas ACP benefits, which are simply grant of monetary benefit without actually effectuating any promotion to any higher post, cannot be restricted or withdrawn on the ground that the departmental test for the promotional post was not cleared.

10. Thus, the present writ petition is allowed and the impugned show cause notice dated 09.08.2022 (Annexure P-2) and all the subsequent proceedings arising therefrom are hereby quashed. The respondents are directed to release the retiral benefits of the petitioner along with interest @ 6% per annum from the date of retirement till its actual payment in view of the law laid down by the Full Bench of this Court in *A.S. Randhawa's case (supra)*.

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

(HARPREET SINGH BRAR)
JUDGE

September 15, 2025

P.C

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No