



CWP-426-2025

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

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CWP-426-2025

Date of Decision: 13.01.2025

Suresh Kumar Soni

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Sajjan Singh Malik, Advocate for the petitioner
Mr. Saurabh Mohunta, Deputy Advocate General, Haryana
Ms. Rajni Gupta, Advocate for respondent Nos.2 to 5

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking modification of order dated 11.04.2023 (Annexure P-1) whereby his claim has been restricted to three years.

2. This is second round of litigation. The petitioner joined respondent-Haryana Vidyut Prasaran Nigam Limited as Carrier Assistant on 26.04.1993 and was promoted as Senior Carrier Assistant w.e.f. 28.09.2012. He attained age of superannuation on 21.07.2020. He vide letter dated 07.09.2022 applied for higher pay scale as per principle of 'catch up'. His claim was based on the ground that his junior was promoted prior to him and as soon as he was promoted, he was entitled to pay equal to his junior. The respondent vide order dated 11.04.2023 (Annexure P-1) decided his claim. Principally, his claim was accepted, however, arrears were restricted to 3 years preceding the date of application. He made further representations which culminated in *CWP No.1577 of 2024* before this Court. By order



dated 24.01.2024, this Court directed the respondent to reconsider claim of the petitioner. The respondent by impugned order dated 25.04.2024 has adjudicated his claim. The operative portion of order dated 25.04.2024 is reproduced as under : -

"4. After examination of the contentions made in the representation, it appears that the petitioner has requested for not to restrict the benefit of step up to three years preceding the date of submission of request and to grant the benefit of 1st ACP as Sr. Carrier Assistant with the benefit of step up with his junior Sh Subhash Chander.

5. The competent authority to settle both the aforesaid demands of the petitioner is Superintending Engineer/Admin-II. Hence, the matter was referred to SE/Admin-II to offer the necessary comments which was received and reproduced as under:

"A detailed memorandum was submitted for consideration and recommendations of the WTDS, HVPNL for grant of benefit of stepping up of pay with their junior reserved counterpart. The Company Secretary, HVPNL vide U.O. No.4725/WTDs 17.02.2016 (12) dated 14.03.2016 has conveyed the following decision of Whole Time Directors, HVPNL in its meeting held on 17.02.2016 which was further conveyed by Deputy Secretary/HR & SR, HVPNL, vide memo no. Ch-34/EG-155/L-IV/CS- dated 14.03.2016: -

"The principle of actual catch up in the non-gazetted cadre as followed by the HVPNL, in case of CWP No.20141 of 2010 and 13926 of 2011 titled D.D. Tayal on the advice of AG, Haryana and CS, Haryana be followed by the Nigam subject to the condition that the payment of arrears be restricted to a period of 3 years preceding the date of submission of request with the Nigam by the employee/retiree or the actual date of promotion from which he is entitled for arrears, whichever is later."

Shri Suresh Kumar, Sr. Carrier Assistant (BC) (Retired) has submitted representation dated 07.09.2022 for grant of stepping up of his pay at par with his junior counterpart of



reserved category Shri Subhash Chander, Sr. Carrier Assistant (SC) (Retired).

The Request of the retired official was considered by the Whole Time Director, HVPNL, in its meeting held on 29.03.2023 & benefit of stepping of pay was granted vide office order No. 97PF-7335 dated 11.04.2023 as per catch up principal on the following manner:

<i>Name & Designation</i>	<i>Parity with</i>	<i>Actual date of receipt of request</i>	<i>Actual date of Catch-up</i>	<i>Date of notional fixation of pay</i>	<i>Date from which benefit of arrear to be granted</i>
<i>Shri Suresh Kumar, Sr. Carrier Assistant (BC)</i>	<i>Shri Subhash Chander, Sr. Carrier</i>	<i>07.09.2022</i>	<i>28.09.2012</i>	<i>25.05.2009</i>	<i>07.09.2019</i>

The arrear of 3 years has been restricted by WTD's of HVPNL in view of the following judgment of Hon'ble Punjab & Haryana High Court Chandigarh:-

- 1. Hon'ble Punjab & Haryana High Court order dated 15.9.2015 in CWP No.19432 of 2015 titled as Dharampal Dagar Vs. SE/TS, HVPNL, Faridabad and Others.*
- 2. Hon'ble Punjab & Haryana High Court order dated 02.11.2015 in CWP No. 22879 of 2015 titled as Laxman Prashad Sharma Vs. SE/TS, HVPNL, and Others.*
- 3. Hon'ble Punjab & Haryana High Court order dated 14.09.2015 in CWP No.18547 of 2015 titled as Ram Narain Sharma VS. CE/Admn., HVPNL and Others.*
- 4. Hon'ble Punjab & Haryana High Court order dated 02.11.2015 in CWP No.22880 of 2015 titled as Ved Parkash Sharma Vs. SE/TS, HVPNL and Others.*

However, it is further submitted that he is not eligible for 1st ACP for the post of Sr. Carrier Assistant (Date of Promotion as Sr. Carrier Assistant on 28.09.2012), as he was not



completed 8 years regular service on the post of Sr. Carrier Assistant prior to his retirement i.e. 31.07.2020.”

6. *In compliance of the Judgement dated 24.01.2024, a personal hearing was also given to Shri Suresh Chander Soni vide Memo No. 04/PF dated 02.04.2024 and he has attended the hearing on dated 10th April 2024 in the office of Director/Finance, HVPNL, Panchkula. During the course of hearing, he stated his contentions made in the aforesaid representation but no additional facts were submitted by him regarding his grievances*

7. *After perusal of the entire matter, it transpires that with regard to the claim of petitioner for not restricted the benefit of step up to three years preceding the date of submission of request is concerned, law in this regard has already been settled by the Hon'ble Punjab and Haryana High Court in various matters like CWP No. 19432 of 2015, CWP No. 22879 of 2015, CWP No. 18547 of 2015 and CWP No. 22880 of 2015 etc. where the Hon'ble High Court has restricted the arrears to a period of three years. Further, as per the minutes of meeting of Whole Time Directors of HVPNL held on 14.03.2016, it has been decided that payment of arrears on account of stepping- up/catch-up to be restricted to period of three years preceding the date of submission of request to the Nigam. Hence, the benefits of arrears of three years prior to the submission of the representation by the petitioner has already been granted. The extending of the benefits beyond the said period of three years will be in violation of law settled by the Hon'ble High Court as well as aforesaid decision taken by Competent Authority.*

8. *With regard to the issue of eligibility of the petitioner for 1st ACP to the post of Senior Carrier Assistant, it transpires that the petitioner was promoted as Senior Carrier Assistant on dated 28.09.2012 and he had been retired on dated 31.07.2020, Meaning thereby, he has not completed 8 years regular service on the post of Senior Carrier Assistant. As per sub-Rule (1) of Rule 7 of HVPNL (Assured Carrier Progression) Rules, 2016, 8 years of regular satisfactory service is mandatory for eligibility for grant of 1st ACP. Hence, this claim of the petitioner does not seem to be justified.*

9. *Therefore the claim of the petitioner is hereby rejected being devoid of merits in the interest of justice.*



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This issues with the approval of Director/ Finance, HVPNL, Panchkula.”

3. Learned counsel for the petitioner, at the outset, submits that respondent has not re-fixed pension as well as released arrears as per order dated 11.04.2023. The respondent was bound to release admitted claim. The grievance of petitioner would be redressed if payment is released as per order dated 11.04.2023 (Annexure P-1).

4. Notice of motion.

5. Mr. Saurabh Mohunta, Deputy Advocate General, Haryana and Ms. Rajni Gupta, Advocate, accept notice on behalf of respondent No.1-State and respondent Nos.2 to 5, respectively.

6. With the consent of all parties, the matter is taken up for final adjudication.

7. Learned counsel for respondent Nos.2 to 5 assures the Court that order dated 11.04.2023 shall be complied with in letter and spirit. The petitioner shall be released his benefits within four weeks from today.

8. In the wake of the statement of learned State counsel, the present petition stands disposed of.

9. The petitioner is at liberty to move an application under Article 215 of Constitution of India, if respondent fails to comply with order dated 11.04.2023 within four weeks.

(JAGMOHAN BANSAL)
JUDGE

13.01.2025
Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No