



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

CWP-17260-2023

Date of Decision: 12.08.2025

DESH RAM

...PETITIONER

Vs.

STATE OF HARYANA AND OTHERS

...RESPONDENTS

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

Present:- Mr. Vijay Kumar Sheoran, Advocate
for the petitioner.

Mr. R. D. Sharma, DAG, Haryana
for respondents No.1 and 2.

Respondent No.3 ex parte.

VINOD S. BHARDWAJ, J. (ORAL)

1. Challenging the impugned order dated 23.11.2022 passed by respondent No.2 *vide* which the claim of the petitioner to step up the pay at par with his juniors along with all consequential benefits i.e. 1st ACP Scale w.e.f. 01.01.2002 and 2nd ACP w.e.f. 01.01.2012 respectively has been rejected, the instant writ petition has been filed.

2. Learned counsel appearing on behalf of the petitioner contends that the respondents have denied the benefit of the ACP to the petitioner on the ground that the petitioner did not qualify the type test which was a mandatory condition in the promotion order. He submits that the respondents had already granted exemption to the petitioner from the condition of passing the type test and that under similar circumstances the juniors of the petitioners namely; Sh. Shish Pal, Sh. Muni Lal etc., have



been granted the benefit of 1st and 2nd ACP. He contends that Sh. Shish Pal, junior of the petitioner, had approached this Court in CWP No.1765-2016 titled as 'Shish Pal v. State of Haryana and others' which was allowed in his favour vide order dated 23.08.2018. The Order dated 23.08.2018 passed in CWP No.1765-2016 reads thus:-

“

Petitioner is seeking the benefit of grant of Ist ACP scale w.e.f. 01.01.2002 and fixation of his salary at par with his junior namely, Ravi Kumar.

The respondents are denying this benefit to the petitioner on the ground that he is not fit for promotion as he has not passed the type test as Clerk and he cannot be promoted on next promotional post of Assistant as per Department Services Rules of Group 'C' notified on 29.01.1998.

Along with the replication to the written statement, petitioner has placed on record copy of order dated 26/27.10.2006 (Annexure P-12), whereby benefit of exemption from passing of type test has been granted to the petitioner keeping in view the draft rules.

This issue was considered in case Prithvi Raj vs. State of Haryana and others, CWP No.5569 of 1999, whereby it was held that annual increment should be granted to the Clerks, who were promoted from Class-IV, without passing of type test. This order has attained finality. In the facts of the present case, respondent-State has taken this plea unnecessary by ignoring the order dated 26/27.10.2006 (Annexure P-12). In view of the said fact, this petition deserves to be allowed.



Resultantly, the present petition is allowed, impugned order dated 25.09.2015 (Annexure P-10) is set aside and the respondents are directed to grant the benefit of 1st ACP Scale (Assured Career Progression) to the petitioner w.e.f. the due date i.e. 01.01.2002 with all consequential benefits.”

3. Learned counsel for respondents No.1 and 2 is not in a position to dispute that the benefit of ACP had been denied to the petitioner. Learned counsel for respondents No.1 and 2 emphatically placed reliance on the paragraphs No.4 and 5 of the written statement, which are extracted as under:-

“ *****

4. That as per provisions of the said rules, any employee cannot be promoted to the post of Assistant from that of Clerk until he passes the type test as prescribed at Serial No.9 (Column 4) in Appendix ‘B’ therein, which is reproduced herein under:

<i>Sr. No.</i>	<i>Designation of post</i>	<i>Academic qualification and experience if any, for direct recruitment</i>	<i>Academic qualification and experience if any, for appointment than by direct recruitment</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>
<i>9.</i>	<i>Assistant/Accountant Cashier/Head Clerk-cum-Accountant/Junior Auditor/Accountant-cum-Store Keeper</i>	<i>---</i>	<p><i>By Promotion;</i></p> <p><i>(i) Five year experience as Clerks/Storekeeper/Steno-typist/Account Clerk/Clerk-cum-Storekeeper/Clerk-cum-typist/Junior Auditor/Hostel Warden having passed the type test of English or Hindi as prescribed by the Government from time to time.</i></p> <p><i>By transfer or deputation:</i></p> <p><i>(i) Five year experience as Clerks/Storekeeper/Steno-typist/Account Clerk/Clerk-cum-Storekeeper/Clerk-cum-typist/Junior Auditor/Hostel</i></p>



			<p>Warden having passed the type test of English or Hindi as prescribed by the Government from time to time.</p> <p>(ii) Hindi up to Matric standard.</p>
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Hence, it is crystal clear from the said departmental rules that the condition of passing type test at prescribed speed is required to be fulfill for promotion to the post of Assistant from that of Clerk and the petitioner was/is not entitled for promotion to the post of Assistant as he did never pass the type test.

5. That further, it is also submitted that Sh. Sunil Kumar, junior to the petitioner, was appointed to the post of Clerk in the answering respondent department through direct recruitment on 11.06.1993 and he was promoted to the post of Assistant from that of Clerk, as per rules, after qualifying the type test vide order dated 03.05.2012 whereas the petitioner did never pass the type test. Hence, the claim of the petitioner for promotion at par his junior Sh. Sunil Kumar is not maintainable in light of the Departmental Service Rules, 1998.”

4. I have heard the learned counsel for the respective parties and have perused the documents appended with the instant writ petition.

5. The specific objections taken by learned State counsel for respondents No.1 and 2 in paragraphs No.4 and 5 of the written statement is only with respect to further promotion to the post of Assistant from the cadre of Clerk. However, the specific argument of the petitioner that a

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similar benefit has already been granted to the juniors of the petitioner namely Sh. Shish Pal, as made in paragraph No.14 of the instant writ petition, has not been denied. No reasons have been cited as to how the case of the petitioner is distinguishable from the case of *Shish Pal (supra)*. Absence of denial of specific pleadings about petitioner and Shish Pal having been granted exemption and benefit having been given to Shish Pal, the case of the petitioner has to be treated at par.

6. After perusing the order dated 23.08.2018 passed in the matter of *Shish Pal (supra)*, I am of the view that the petitioner has been able to establish that his case is at par with the case of *Shish Pal (supra)*, who is undisputedly his junior and has already been granted the said benefit.

7. In view of the above, the instant writ petition is **allowed** in terms of order dated 23.08.2018 passed in the matter of *Shish Pal (supra)*.

(VINOD S. BHARDWAJ)
JUDGE

12.08.2025*Rahul Joshi*

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No