



CWP-17435-2024

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

248

CWP-17435-2024

Date of Decision: **September 23, 2025**

Pritpal Singh

.....Petitioner

VERSUS

Punjab State Civil Supplies Corporation Limited (PUNSUP) and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Padamkant Dwivedi, Advocate and Ms. Mehak Singh,
Advocates for the petitioner.

Ms. Sunint Kaur, Advocate for the respondents.

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, order or directions especially in the nature of *certiorari* for quashing the impugned order dated 13.06.2024(Annexure P-12) rejecting the claim of petitioner for grant of notional benefits of annual increments from the date when petitioner successfully passed the type test along with interest @ 9% Per annum on account of alleged non-sanction of probation period due to pendency of FIR. Further for issuance of writ in the nature of *mandamus* directing the respondents to confirm the probation period on completion of two years of service w.e.f 15.10.2003 as the petitioner is deemed to have



CWP-17435-2024

cleared the probation period when he was allowed to work beyond 15.10.2003 and to fix the pay of petitioner after granting him notional benefits of annual increments w.e.f. 15.10.2002 and pay the actual benefits of annual increments from the date he successfully passed the type test. Lastly, directing the respondents to grant the benefit of Assured Career Progression Scheme on completion of 4-9-14 years of service along with interest and to consider him to higher post, as per Bye Laws and Rules applicable to the respondent-Corporation.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was appointed as a Clerk on 20.09.2001 on compassionate grounds on account of demise of his father and joined services on 15.10.2001. Further, one of the conditions incorporated in the appointment letter is with regard to clearing the type test. He had successfully completed three years of tenure, as such, he is deemed to have cleared the probation as provided under the Rule 11 of Probation of Members of Service in the service byelaws of PUNSUP dealing with the probation. The maximum period of probation as per service rules is two years which can be extended upto three years. He has completed the three years of service to the satisfaction of the respondent-Corporation and would be deemed to be confirmed for the post. He relies upon the judgment of the Constitution Bench of Hon'ble Supreme Court of India in ***State of Punjab Versus Dharam Singh, AIR 1968 SC 1210***. The entitlement of petitioner for annual increments have been denied on the ground that he has not cleared the type



CWP-17435-2024

test, whereas, he has cleared the same held on 13.03.2020, discernible from Annexure P-6. As such, after clearing the type test, he is entitled to the increments. No outer limit was provided in the applicable rules with regard to the maximum duration to clear the type test and the respondent-Corporation has not implemented and adopted the instructions issued by the Government of Punjab. Although the Board of Directors approved the same in its meeting held on 27.07.2016. The instructions in this regard were issued to exempt the employees appointed on compassionate grounds, who could not clear the type test, rather they should be allowed to get the requisite training. The petitioner fulfils the eligible criteria for grant of ACP scheme adopted by the respondent-Corporation, however, claim of the petitioner for benefits of annual increments, ACP Scheme and promotion was denied vide impugned order dated 13.06.2024 (Annexure P-12) on account of lodging of FIR against the petitioner. On the other hand, the persons working in the Department who are juniors to the petitioner have been promoted and the respondent-Corporation has passed the confirmation order on completion of probation of identical employees against whom the criminal cases are pending, as is discernible from order dated 30.06.2023 and 06.03.2024(Annexure P-15 and P-16 respectively). The claim of the petitioner was rejected solely on the basis of pendency of FIR No.12 registered against him on 16.09.2017 by Vigilance Bureau. Admittedly, till date on account of registration of such FIR no charge-sheet has been issued to the petitioner, as such, respondent-Corporation cannot deny the claim of



CWP-17435-2024

petitioner for annual increments as well as ACP scheme.

3. *Per contra* learned counsel for the respondent-Corporation submits that the petitioner was obligated to clear the type test in terms of Clause 7 of the appointment letter and the applicable instructions. There are serious allegations against him and is facing trial in that FIR (supra) registered by the Vigilance Bureau. However, he could not controvert the fact that the respondent-Corporation has not discharged the petitioner from the service on the ground that he has failed to come up to the expectation of the employer on account of failure to clear the type test and on account of registration of FIR(supra) no charge sheet was served upon him. Although, she submits that another charge sheet in which order of punishment has been awarded against the petitioner by withholding one annual increment without cumulative effect.

4. In rebuttal, learned counsel for the petitioner submits that awarding of minor punishment under the disciplinary proceedings would not create an embargo either in promoting him or granting him the financial benefits towards annual increment as well as ACP scheme.

5. I have heard the submissions made by learned counsel for the parties and perused the record with their able assistance.

6. A Constitutional Bench of the Hon'ble Supreme Court in ***State of Punjab v. Dharam Singh, 1968 SCC OnLine SC 66***

"5. In the present case, Rule 6(3) forbids extension of the period of probation beyond three years. Where, as in the present case, the service rules fix a certain period of time beyond which the probationary period cannot be extended, and an employee appointed



CWP-17435-2024

or promoted to a post on probation is allowed to continue in that post after completion of the maximum period of probation without an express order of confirmation, he cannot be deemed to continue in that post as a probationer by implication. The reason is that such an implication is negated by the service rule forbidding extension of the probationary period beyond the maximum period fixed by it. In such a case, it is permissible to draw the inference that the employee allowed to continue in the post on completion of the maximum period of probation has been confirmed in the post by implication.”

7. In the present case, the petitioner's probation, extendable up to a maximum of three years, ended on 14.10.2004. His continuation in service beyond that date, without any order of discharge, leads to the inescapable conclusion that he stands deemed confirmed in service w.e.f. 15.10.2004. The respondents' inaction cannot prejudice the petitioner's statutory right to confirmation.

8. Further, A Two Judge Bench of the Hon'ble Apex Court in ***Director (Admn. and HR) KPTCL v. C.P. Mundinamani 2023 INSC 352***, while speaking through Justice M.R Shah made the following observations,

“6.7.....and denying a government servant the benefit of annual increment which he has already earned while rendering specified period of service with good conduct and efficiently in the last preceding year. It would be punishing a person for no fault of him. As observed hereinabove, the increment can be withheld only by way of punishment or he has not performed the duty efficiently. Any interpretation which would lead to arbitrariness and/or unreasonableness should be avoided.....”

9. The increment earned by an employee stands as an acknowledgment of services duly rendered during the preceding period. It is a vested right accruing over the course of performance, distinct from any assessment of future conduct. Observing the procedural safeguards, the mere registration of an FIR does not equate to misconduct or guilt but serves only



CWP-17435-2024

as a marker of a future investigation whose outcome remains uncertain. Consequently, withholding increments on this tentative basis disrupts the principle of fairness, as it punishes an individual without a conclusive determination. Only an adjudicated penalty imposed following a formal disciplinary process provides justifiable grounds for withholding increments. This ensures that employees are not subjected to arbitrary deprivation while preserving the sanctity of disciplinary authority. The balance thus lies in upholding the right to earned increments unless and until a lawful punishment intervenes, maintaining both the rule of law and equity.

10. In view of the above facts and circumstances of the case, the present petition is allowed and the impugned order dated 13.06.2024 (Annexure P-12) is set aside. The respondents/competent authority is directed to grant annual increments from the date the petitioner had passed the type test. Respondents are further directed to confirm the petitioner on completion of his probation period and his case for promotion and ACP scheme be also considered in accordance with law. Needful to be done within a period of three months from the date of receipt of certified copy of this order.

11. Pending miscellaneous application(s), if any, shall also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

September 23, 2025

P.C

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No