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A consultancy firm to provide help for the problems of govt. employees & retired pensioners

PERFORMA (ENGLISH CAPITAL LETTERS) Writ Regarding Debar Case due to refusal to avail promotion and forfeiture of proficiency step up of ACP

Name	
Father's Name	
Designation	
School Name	
School Email Address (If Any)	
Date Of Birth	
Aadhar Card No.	
Date Of Appointment	
Date Of Regular	
Date Of Retirement	
Date of Debar due to the promotion	
ACP due on dated	
Mobile Number	
Whats App Number	
Email Address	
Residence Address	
Signature	

Important Points:-

Paytm Payment Mobile Number:- 9915031482 Google Pay Payment Mobile Number:- 9915031482 PhonePe Payment Mobile Number:- 9915031482

- 1. In case of female, write the name of husband in address.
- 2. Send one copy of performa by whatsapp and one by post.
- 3. Write tehsil and distt. name in school and residence address.
- 4. Send one copy of Aadhar Card by whatsapp and one by post.

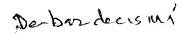
State Bank of India Budhlada
Distt. Mansa(Punjab)
Current A/c No.39453963229
In Favour of: Krishana Consultancy
IFSC Code: SBIN0050050
Whatsapp No - 98157-13297

POWER OF ATTORNEY

In the Court of		
	VERSUS	Plaintiff/Appeallant Complainant Petitioner Defendant
	om these present shall come that	
for the	in the above mentions	ed case to do all the following acts
deeds and things or ar 1. To act appear and plea	ny of them that is to say:- ad in the above mentioned case	in the court or any other Court in or in any stage of its progress until
Present pleading apperent review, revisions withd	rawal compromise or other petitio	ojection or petitions for execution ons or affidavit or other documents ecution of the said case in all its
To file and take back do dismissed in default.		or restoration there of in case it is
that shall arise touching 5. To deposit draw any rec things which may be ne	g or in any manner relating to the ceive money and grant receipt the	bitration any difference or disputes said case. ere of and to do all other acts and ss and in the case of prosecutions
authorities hereby conf And I/We hereby agre	erred on the advocate whenever	him to exercise the power and he may think fit to do so. e or his substitute shall do in the
of said for hearing case for any negligence of the	in consequence from the court version and advocate or his substitute	
to the Advocate, remain	ning unpaid he shall be entitled to ame is paid if any costs are allowed	part of fee agreed by me to be paid withdraw from the prosecution of d for an adjournment the advocate
which have been explai	I/We agree to set my/our hands ned to understand by me/us this to 20	

Accepted:

(Signature or Thumb Impression of client)



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 15839 of 2007 Date of Decision: 11.8.2009

Nirmal Kanta and another

...Petitioners

Versus

State of Haryana and others

....Respondents

CORAM:

HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE JITENDRA CHAUHAN

PRESENT: Mr. B.K. Bagri, Advocate for the Petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

The short question raised in the instant petition is whether refusal of the petitioners to avail promotion as Sub Divisional Clerks would entail the consequences of forfeiting their entitlement to Assured Career Progression Scale (ACP). The prayer made by the petitioner in the instant petition is or quashing of orders dated 29.3.2004 (AnnexureP.18 and P.19) and 27.3.2007 (Annexure P.22 and 23).

Brief facts of the case are that the petitioner No.1 had joined as Clerk in the office of Superintending Engineer. Electrical Circle, Haryana on 19.3.1970 and petitioner No.2 joined as such on 5.2.1970. The Government of Haryana issued instructions for the grant of higher standard pay scale on completion of 10/20 years regular service. Petitioner were granted 23rd higher standard pay scale in the scale of Rs.1400-26000 w.e.f. 1.1.1994. On 1.1.1996, the petitioners were granted 2nd ACP scale in the revised scale of Rs.5700-7850 w.e.f. 1.1.1996. A show cause notice dated 14.8.2001 (Annexure P-3 & P-4) have been raised to each of the petitioners alleging that they were not entitled for fixation of her pay in the 2nd ACP of Rs.5000-7850 of revised scale w.e.f. 1.1.1996. The show cause notice was duly replied by the petitioners and after consideration of the same impugned orders have been passed reducing the pay of the petitioners on the ground that they had requested to forego their promotion as Sub Divisional Clerks. The petitioners have rendered more than 20 years of service on the post of clerk before 19.3.1990.

When the matter came up for hearing we apprised the learned state counsel that the controversy is covered in favour of the petitioners and against the respondents by a Division Bench judgment of this Court rendered on 23.11.2002 in CWP No.7642 of 2001.

A perusal of the judgment dated 28.11.2002 shows that the question involved was as to whether proficiency step up of the employee could be withheld merely because he has refused to avail promotion. The Division Bench has taken the view that such a course is not open to the respondent-state. The operative part of the orders reads as under:-

> "The basic contention raised before us is that the respondent had undergone their promotions as lecturers w.e.f. 1.1.1996 and consequently they

would be debarred from claiming the proficiency step up. The respondents claim to have taken this action in furtherance to paragraph No.9 of the Punjab Government instructions dated 1.9.1989. It is difficult for this Court to hold that the petitioners would be debarred from claiming the proficiency step up in the circumstances of the case. The petitioners were offered the promotion in September, 1998 and thereafter, by that time the petitioners had completed more than eight years of service as they were appointed in Adhoc basis in the year 1975 and regularly appointed to the same posts in the year 1977 onwards. Thus, in any circumstances and whatever be the interpretation given to the instructions of the Government, the petitioners cannot be denied the eight years proficiency step up increment."

In shell the principle laid down is that refusal to avail promotion would not entail the consequences of forfeiture of proficiency step up of Assured Career Progression. The matter is squarely covered by the judgment in CWP No.7642 of 2001 decided on 28.11.2002. Therefore, the writ petition succeeds and the (Annexure P-18 and P-19) and orders dated 27.2.2007 (Annexure P-22 and P-23) are hereby quashed. The respondents are directed to consider the cases of the petitioners for ACP scheme on completion of 10 and 20 years service in a cadre as per rules. Let the needful be done within a period of two months from the date of receipt of certified copy of this order.

Sd/- M.M. Kumar

Judge Sd/- Jitendra Chauhan Judge

11.8.2009

True Copy

Advocate