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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:-

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.

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

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

..... [Plaintiff/Appeallant
Complainant
Petitioner

VERSUS

..... [Defendant
Respondent,
Accused

KNOW ALL to whom these present shall come that I/We undersigned appoint

for the in the above mentioned case to do all the following acts deeds and things or any of them that is to say :-

1. To act appear and plead in the above mentioned case in the court or any other Court in which the same may be tried or heard in the execution or in any stage of its progress until its final decision.
2. Present pleading appeals letter patent appeal cross objection or petitions for execution review, revisions withdrawal compromise or other petitions or affidavit or other documents as shall deemed necessary or advisable for the prosecution of the said case in all its stage.
3. To file and take back documents and to file application for restoration there of in case it is dismissed in default.
4. To withdraw or compromise the said case or submit for arbitration any difference or disputes that shall arise touching or in any manner relating to the said case.
5. To deposit draw any receive money and grant receipt there of and to do all other acts and things which may be necessary to be done for the progress and in the case of prosecutions of said case.
6. To employee and other legal practitioner authorising him to exercise the power and authorities hereby conferred on the advocate whenever he may think fit to do so.

And I/We hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.

And I/We hereby agree not to hold the Advocate or his substitute responsible for the result of said for hearing case in consequence from the court when the said case is called up or for any negligence of the said Advocate or his substitute.

And I/We hereby agree that in the event of whole or any part of fee agreed by me to be paid to the Advocate, remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid if any costs are allowed for an adjournment the advocate would be entitled to the same.

IN WITNESS WHERE OF I/We agree to set my/our hands to the represent the contents of which have been explained to understand by me/us this the

.....day..... 20.....

(Signature or Thumb Impression of client)

Accepted :

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 othersRespondents

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 (Annexure P.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