

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

LPA No. 1447 of 2014

DATE OF DECISION : 07.05.2015

Brij Lal Singla

.... APPELLANT

Versus

State of Punjab and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. C.M. Chopra, Advocate,
for the appellant.

Mr. K.K. Gupta, Addl. A.G., Punjab,
for respondents No.1 and 2.

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SATISH KUMAR MITTAL, J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed against the orders dated 08.05.2014 and 17.07.2014 passed by the learned Single Judge.

The order dated 08.05.2014, whereby the writ petition (CWP No. 4956 of 1996) filed by the appellant was dismissed by the learned Single Judge, reads as under :-

“The petitioner approached this Court impugning the order dated 29.3.1996 (Annexure P-18) vide which he was reverted from the post of Senior Assistant to the post of Junior Assistant.

At the time of admission of the writ petition on 25.9.1997, the operation of the impugned order reverting him was stayed qua him. As is evident from the fact stated in para 2

of the petition, the petitioner had joined service on 22.4.1966, he must have retired from service and paid his retiral dues.

Considering the aforesaid fact, I do not find that merits of the petition are to be gone into at this stage. The petition is accordingly disposed of. However, the retiral dues, which are being paid to the petitioner shall not be disturbed.”

After dismissal of his writ petition, the appellant filed an application (CM No. 7661-CWP of 2014) for re-calling the aforesaid order and deciding the writ petition filed by him on merits. In the application, it was stated that in the writ petition, the appellant had also prayed for directing the respondents to consider his case for promotion as Senior Assistant from the date his juniors were promoted, with all consequential benefits. The said application was also dismissed by the learned Single Judge, while passing the following order on 17.07.2014 :

“Prayer in the application is for re-calling the order dated 8.5.2014 passed in the presence of counsel for the applicant-petitioner.

Considering the fact that the order was passed in the presence of counsel for the applicant-petitioner on 8.5.2014 and the facts noticed there that the petitioner, who had challenged his order of reversion, had retired from service and during the pendency of the petition, the reversion had been stayed are not in dispute. I do not find any reason to re-call the order dated 8.5.2014.

Dismissed.”

Now, the instant appeal has been filed challenging both the aforesaid orders.

During the course of arguments, it has not been disputed that

the writ petition filed by the appellant was not decided on merits. In view of this fact as well as in the facts and circumstances of the case that part of the claim of the appellant with regard to considering his case for promotion to the post of Senior Assistant from the date his juniors were promoted, has not been considered on merits, the order dated 08.05.2014 as well as the subsequent order dated 17.07.2014 passed by the learned Single Judge, are hereby set aside and the matter is remanded to the learned Single Judge to decide the writ petition (CWP No. 4956 of 1996) filed by the appellant, on merits.

Appeal is, accordingly, disposed of.

**(SATISH KUMAR MITTAL)
JUDGE**

May 07, 2015
ndj

**(HARINDER SINGH SIDHU)
JUDGE**