

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.1087 of 2015 (O&M)

Date of Decision: July 24, 2015

Dr.Suprabha Dahiya

.....Appellant

versus

Bhagat Ram Aggarwal and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Lekh Raj Sharma, Advocate, for the appellant.
Mr.Saurabh Girdhar, Assistant AG, Punjab.

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1. *Whether Reporters of Local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Surya Kant, J. (Oral)

In view of the fact that the relief sought in this appeal would not affect the first respondent, we do not deem it necessary to issue any notice to him. In the light of the clarificatory relief sought by the appellant, let notice of this appeal be issued to the State of Haryana only through its Advocate General.

[2] On our asking, Mr.Saurabh Girdhar, learned Assistant Advocate General, Haryana, accepts notice.

[3] Let two copies of the paper book be handed over to him during the course of day.

[4] Heard learned counsel for the parties.

[5] The first respondent served in the P.W.D. (B&R) Department, Haryana as a Junior Engineer from 12.04.1966 till 08.02.1980. He then joined the Haryana Warehousing Corporation as Sub Divisional Engineer and retired from that Corporation as Executing Engineer on attaining the age of superannuation on 30.06.2005.

[6] Since the service rendered by respondent No.1 under the State Government was not being counted for the purpose of retiral benefits, he approached this Court in CWP No.5475 of 2010 and the learned Single Judge accepted his claim vide judgment dated 30.04.2013 laying down as follows:-

“..... For the reasons recorded above, the present writ petition is allowed. The impugned order dated 6.1.2010 (Annexure P-10) is quashed. The petitioner is held entitled to the benefit of pro-rata pension and other admissible retirement benefits for the period w.e.f. 12.4.1966 to 8.2.1980, i.e., the service rendered as a confirmed employee under the Haryana P.W.D. (B&R) Department. Such benefit be released in favour of the petitioner within a period of two months from the date of receipt of a certified copy of this order....”

[7] The first respondent has now initiated contempt proceedings for non-compliance of the above-stated order. In those proceedings, learned Contempt Judge vide order dated 09.04.2015 took notice of the fact that some of the monetary benefits are yet to be released in favour of respondent No.1 and thereafter, vide order dated 26.05.2015, has clarified the import, implications and consequences of the judgment dated

30.04.2013 passed in writ jurisdiction. Vide this clarificatory order, the appellant, who is Managing Director of Haryana State Warehousing Corporation, has been found prima-facie responsible for not complying with the order dated 09.04.2015 of the Contempt Court.

[8] The appellant has preferred this appeal contending that the benefit of past service was denied to respondent No.1 by the State of Haryana and the delay in releasing the due retiral benefits for which interest has been levied, is solely attributable to the authorities in the State Government and not the Corporation.

[9] Learned counsel for the appellant cites the order dated 03.03.2010 passed in LPA No.190 of 2006 (Yudhbir Singh Khyalia, Registrar, Kurukshetra University, Kurushetra versus Chetan Sharma to contend that the instant letters patent appeal is maintainable for seeking the clarification/direction.

[10] It appears from bare reading of the judgment dated 30.04.2013 passed by Writ Court that the Haryana Warehousing Corporation did not resist the claim of respondent No.1, rather it was the State of Haryana who contested it. If that is so, the interest as a result of delayed payments can be levied on the State of Haryana only. However, such an issue need not be adjudicated by this Court or the Contempt Court as the Corporation may release the interest amount to respondent No.1 without prejudice to its legal rights to seek full reimbursement of that amount from the State Government. It is directed that as and when the Corporation raises such a claim against the PWD (B&R) Department, the Department through its Principal Secretary shall be required to adjudicate the same within three months.

In the light of the above clarification, we extend the period for release of the payment to respondent No.1 for another two weeks.

The appeal stands disposed accordingly.

[SURYA KANT]
JUDGE

July 24, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE

CM No.2281 of 2015 in
LPA No.1087 of 2015

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Dr.Suprabha Dahiya versus Bhagat Ram Aggarwal and
others

Present : Mr.Lekh Raj Sharma, Advocate,
for the applicant-appellant.
Mtr.Saurabh Girdhar, AAG, Haryana.

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For the reasons mentioned in the application, the
same is allowed subject to all just exceptions and 73 days'
delay in filing the appeal is condoned.

CM stands disposed of.

(SURYA KANT)
JUDGE

July 24, 2015
mohinder

(P.B.BAJANTHRI)
JUDGE