

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Letters Patent Appeal No.1528 of 2015 (O&M)
Date of Decision: 20.10.2015

State of Haryana and others ..Appellants

versus

Hans Raj Gupta and others ..Respondents

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MRS. JUSTICE REKKHA MITTAL

Present: Mr. Ravi Dutt Sharma, Deputy Advocate General,
Haryana, for the appellants.

RAJIVE BHALLA, J. (ORAL)

CM No.3276-LPA of 2015

Prayer in this application is to condone delay of 658 days
in filing the appeal.

Heard.

In view of averments in the application and as sufficient
cause has been shown, the application is allowed and delay of 658
days in filing the appeal is condoned.

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The State of Haryana is, before us, challenging order
dated 20.11. 2013, whereby the writ petition filed by the respondents,
has been allowed by granting them the pay scale of the post held by
them as current duty charge. It would be appropriate to point out that
while granting the aforesaid relief, the learned Single Judge, has

relegated the issue regarding the ACP pay scale, to the respondents for adjudication fresh.

Counsel for the State of Haryana submits that as the letter ordering the respondents to work on the post of Sub Divisional Engineer as a current duty charge, clearly records that the respondents will not be entitled to any pecuniary benefit, the impugned order is contrary to the letter and to a Full Bench judgment of this Court in Subhash Chander versus State of Haryana and others 2012 (1) S.C.T. 603. Counsel for the appellants further submits that the respondents, having accepted the letter, cannot claim any further benefit, particularly pecuniary benefits.

We have heard counsel for the appellants, perused the impugned order but are not inclined to grant any relief, much less entertain the appeal.

The learned Single Judge has, after due consideration of the entire controversy, including two Division Bench judgments, namely, Pritam Singh Dhaliwal versus State of Punjab and another, 2004(4) SCT 403 and Balbir Singh Dalal versus State of Haryana, 2002 (4) SCT 422 and a judgment of the Hon'ble Supreme Court in P. Murugesan versus State of Tamil Nadu, 1993(2) SCC 340, held that the respondents are entitled to receive emoluments of the post held by them as current duty charge.

The respondents have admittedly, worked on the post of Sub Divisional Engineers and, therefore, in our considered opinion, reliance of the State of Haryana on Subhash Chander's case (supra), a Full Bench judgment of this Court, is entirely misplaced,

particularly as reference by counsel for the State of Haryana to paragraph 14, this paragraph refers to current duty charge, which is “fortuitous” in nature or in the nature of an officiating promotion. The situation in the present case is entirely different. The respondents were directed to work on the post of Sub Divisional Engineer not as a “fortuitous” appointment but pursuant to an order passed by the appellants.

Consequently, finding no merit in the appeal or error in order dated 20.11.2013, the appeal is dismissed.

(RAJIVE BHALLA)
JUDGE

(REKHA MITTAL)
JUDGE

20.10.2015
VK