

**IN THE HIGH COURT OF JUDICATURE FOR THE STATES OF
PUNJAB AND HARYANA, AT CHANDIGARH**

Letters Patent Appeal No. 2159 of 2014 (O&M)

Date of Decision: September 29, 2015

Darshan Lal Chhabra

---Appellant

Versus

State of Haryana and others

---Respondents

**CORAM: Hon'ble Mr. Justice Satish Kumar Mittal
Hon'ble Mr. Justice Mahavir S. Chauhan**

Present: Shri Satbir Gill, Advocate, for the appellant.

Shri Sudeep Mahajan, Additional Advocate General, Haryana,
for respondent No. 1.

Shri Suvir Sehgal, Advocate, for respondent Nos. 2 to 4.

1. *Whether Reporters of local papers may be allowed to see the judgment? Yes/No*
2. *To be referred to the Reporter or not? Yes/No*
3. *Whether the judgment should be reported in the Digest? Yes/No*

Mahavir S. Chauhan, J.

Appellant joined service of Haryana State Minor Irrigation and Tubewell Corporation (for short 'HSMITC') on December 18, 1983. Consequent upon winding up of HSMITC appellant was retrenched with effect from June 30, 2002 and retrenchment compensation was paid to him which was accepted by him without demur. In the year 2004 Haryana State Agricultural Marketing Board (for short, 'HSAMB') advertised some vacancies of Accountant through Haryana Staff Selection Commission. Appellant applied for and was selected against one such vacancy and, therefore, was appointed as an Accountant vide order dated November 22,

2004. He retired from HSAMB, on reaching the age of superannuation, on February 29, 2012. As he did not have prescribed qualifying service to his credit only gratuity was paid to him and no pension was allowed. He then made a representation asking for grant of retiral benefits to him by counting service rendered by him with HSMITC, which was rejected. Appellant then approached this Court vide Civil Writ Petition No. 2932 of 2013 wherein, vide order dated February 12, 2013, HSAMB was directed to take final decision on the representation of the appellant by passing a speaking order. Chief Administrator, HSAMB, considered appellant's representation and vide order dated August 08, 2013 (Annexure P5) rejected it saying that the appellant being a direct recruit to HSAMB service rendered by him with HSMITC could not be counted for the purpose of computation of pensionary benefits. Appellant then filed Civil Writ Petition No. 10057 of 2014 which has been dismissed by the learned Single Judge vide order dated August 28, 2014, by observing that appellant's appointment as Accountant by HSAMB being a fresh appointment his service with his previous employer cannot be counted towards grant of retiral benefits to him and the cited judgments are of no help to his case. To lay a challenge to order dated August 28, 2014, appellant has preferred the instant intra court appeal under Clause X of the Letters Patent.

02. Though there is a delay of 109 days in filing the appeal yet we have heard learned counsel for the parties besides examining the documents available on record.

03. On behalf of the appellant reliance has been placed on *order dated January 14, 2010 in Civil Writ Petition No. 19638 of 2008*

(Annexure P-6), Raj Kumar (retired Patwari) versus State of Haryana and others and order dated May 27, 2010 in Civil Writ Petition No. 18370 of 2009 (Annexure P7), Subh Karan Sharma and others versus State of Haryana and others to contend that petitioners in these cases have been allowed benefit of past service and, therefore, same benefit cannot be denied to him.

04. However, on behalf of the respondents it has been argued that in the cited cases the petitioners, who were working in HSMITC, were absorbed in other Boards/Corporation/Departments whereas case of the appellant herein is totally different in so far as after having been retrenched by HSMITC, he accepted retrenchment compensation and joined HSAMB by way of fresh appointment and, therefore, service rendered by him with HSMITC cannot be taken into consideration for computation of retiral benefits. Reliance on behalf of the respondents has been placed upon Letters Patent Appeal No. 570 of 2012, Jai Narain Kaushik and others versus State of Haryana and another, decided on February 04, 2014.

05. No other or further point has been has been urged on either side.

06. It is not in dispute that previous employer of the appellant, namely HSMITC, has been wound up and services of the appellant were retrenched and he accepted the retrenchment compensation without protest and reservation. It is also admitted case of the parties that the appellant joined HSAMB as an Accountant as a direct recruit by way of fresh appointment. No rule or regulation permitting or mandating reckoning of service rendered by the appellant with his previous employer, has been

brought to our notice. As rightly observed by the learned Single Judge, **Raj Kumar (retired Patwari) versus State of Haryana and others** (supra) and **Subh Karan Sharma and others versus State of Haryana and others** (supra), are of no assistance to the appellant's plea because in these cases the retrenched employees of HSMITC were transferred to or absorbed in other Boards/ Corporations/ departments of Haryana without any break and without payment of retrenchment compensation to them by the HSMITC whereas the appellant herein was not so transferred/absorbed. Instead, he was retrenched by HSMITC on June 30, 2002 and accepted retrenchment compensation without any objection or reservation and entered employment of HSAMB as a fresh appointee on November 22, 2004, say after a gap of more than two years. In fact appellant's case falls within the fours of the judgment rendered by a Division Bench of this Court in **Jai Narain Kaushik and others versus State of Haryana and another** (supra). In this batch of cases the appellants were employees of HSMITC, Haryana State Cooperative Consumer Federation Limited ('CONFED', for short) and Haryana Mines and Minerals Corporation Limited ('HMMCL', for short). On closure of these Corporations, their services were retrenched and retrenchment compensation was paid to them. They were then taken back in service under a scheme to re-employ retrenched Group 'C' and 'D' employees subject to various conditions, one of them being that they would submit affidavits to say that adjustments so made would be considered fresh appointments and they would not claim any benefit of past service for the period prior to their retrenchment. Their claim for grant of benefits of past service was rejected by their respective employers. Civil Writ Petitions

brought by them were dismissed and orders of dismissal of their writ petitions were upheld by the Letters Patent Bench vide judgment dated February 04, 2014 which is not shown to have been upset in appeal. Learned counsel for the appellant has failed to persuade us to take a different view or to show that facts of the case of the appellant are different from the facts of cases from which the cited judgment has arisen.

07. In view of the above, we do not find any illegality in the order of the learned Single Judge and, as a consequence, the appeal fails and is hereby dismissed.

08. In the peculiar facts and circumstances of the case, parties are left to bear their own costs.

[SATISH KUMAR MITTAL]
JUDGE

[MAHAVIRS. CHAUHAN]
JUDGE

September 29, 2015
adhikari