

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

LPA-254-2015 (O&M)

Date of Decision: March 2, 2015

Gurtej Singh

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Gurbhajneek Singh Samra, Advocate,
for the appellant.

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)

This Letters Patent Appeal impugns the order dated 4.9.2014, whereby learned Single Judge has dismissed the appellant's writ petition, seeking a writ of mandamus for payment of arrears of pay for the period from 24.3.1995 to 31.3.2000, besides quashing of orders whereby such a relief was declined to the appellant.

The facts may be noticed briefly. The appellant was working as a Salesman in the Hiron Kalan, Multi Purpose Cooperative Agriculture Societies Limited (for brevity, 'the Society'). After holding a departmental inquiry, the Society resolved to dismiss him from service on 24.3.1995. The appellant challenged that order in an appeal before the Deputy Registrar, Cooperative Societies, who allowed his appeal in part vide order dated 8.7.1996 and set aside the dismissal order observing that a minor punishment had already been imposed upon the appellant in respect of the same misconduct. The Society challenged the order of Deputy Registrar in a revision petition before the State Government, which was allowed and the order of the Deputy Registrar was set aside. The appellant then approached this Court in CWP No. 378 of 1998, challenging not only the order of dismissal or the one passed by the Revisional Authority, but also sought consequential benefits including arrears of pay.

This Court vide order dated 22.9.1999 allowed the appellant's writ petition and set aside the revisional order passed by the State Government. The order passed by the Deputy Registrar in favour of the appellant was specifically restored.

Consequent thereupon the Society passed a resolution on 1.12.1999 to reinstate the appellant but without payment of back wages.

The appellant accepted that resolution, joined the service of Society and continued to serve till he started representing somewhere in the year 2007-2013 seeking payment of back wages for the period he remained out of service due to the dismissal order. Those representations having been turned down, the petitioner again approached this Court in CWP No. 18248 of 2014, which has been dismissed by the learned Single Judge primarily on the ground of inordinate and unexplained delay and laches.

Learned Single Judge has viewed that the decision to deny back wages was taken vide resolution dated 1.12.1999 and the subsequent representations made in the year 2007 or so would not revive the cause of action as the appellant's claim was more than 15 years old. Learned Single Judge has, thus, declined to invoke the discretionary jurisdiction under Article 226 of the Constitution of India.

Still aggrieved, the appellant has preferred this Letters Patent Appeal.

We have heard learned counsel for the appellant who

very strenuously urged that the Society kept its resolution dated 1.12.1999 as a secret under the carpet and only when the appellant came to know about such resolution that he approached the authorities. He further submits that neither the appellant had given up his claim for the back wages nor he could be denied the same on the strength of dismissal order, which was found to be *ex facie* illegal.

Having bestowed our thoughtful consideration to the submissions made by learned counsel for the appellant, we do not find any error in the order passed by the learned Single Judge. We say so for the reason that the resolution dated 1.12.1999 (Annexure P-3) expressly states that the President of the Society on being authorised, called the appellant and he was made to understand that his reinstatement was subject to the condition of non-payment of back wages. Long silence of the appellant for a period of more than 10 years is suggestive of the fact that he had enough knowledge of the aforesaid resolution.

That apart, the claim of the appellant re: back wages is deemed to have been impliedly rejected by this Court in the previous round of litigation. Once such a relief was expressly sought but not granted, it is deemed to have been declined.

For the reasons aforesaid, we do not find any merit in

this appeal, which is accordingly dismissed.

Since we have heard and decided the appeal on merits, it is not necessary to pass any separate order in CM-489-LPA-2015, wherein the appellant has sought condonation of delay of 161 days in filing the appeal.

**(SURYA KANT)
JUDGE**

**(NARESH KUMAR SANGHI)
JUDGE**

March 2, 2015
Pkapoor