

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.809 of 2015 (O&M)

Date of Decision: June 30, 2015

The State of Punjab and another

.....Appellants

versus

Satish Bhanot

.....Respondent

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

Present: Mr.J.S.Puri, Additional AG, Punjab, for the appellants.

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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)

This letters patent appeal is directed against the order dated 06.04.2015 whereby learned Single Judge has directed the appellants to release pensionary and other retiral benefits to the respondent in lieu of the service rendered by him as Deputy Advocate General and Senior Deputy Advocate General in the office of Advocate General, Punjab.

[2] Shorn of the details, suffice it to notice that the respondent was appointed as Deputy Advocate General, Punjab in the office of Advocate General, Punjab, on 09.07.1993 in the pay-scale of Rs.4500-6100 alongwith special pay of Rs.600/-. He continued to hold the aforesaid post till 31.03.2004 when it was upgraded and re-designated as Senior Deputy Advocate General. The respondent held the upgraded post till 27.05.2009. He thereafter retired on attaining the age

of superannuation.

[3] The respondent staked his claim for retiral benefits including pension but the same was declined by way of a cryptic order dated 05.03.2014 without assigning any reason.

[4] The respondent approached this Court and the learned Single Judge vide order under appeal has accepted his claim.

[5] The solitary question that arises for consideration is whether the respondent is entitled to pension and other retiral benefits?

[6] It is undeniable that the respondent was appointed as Deputy Advocate General, Punjab on 09.07.1993 on the following terms and conditions:-

“.....1. They will be whole time Government employees and will do all criminal and Misc. work entrusted to them by the Advocate General, Punjab.

2. Their appointments are purely temporary and their services are terminable without assigning any reason and without any notice.

3. In the matter of leave and travelling allowance they will be governed by the Punjab Civil Service Rules.

4. House Rent allowance will be admissible to them at the rate sanctioned by the Government from time to time.

5. Their services are contractual in nature and as such they will not be entitled to any other benefits viz. Pension, gratuity and encashment of leave etc.....”

[7] It is also an admitted fact that the respondent's appointment was subject to decision of CWP No.15237 of 1990 [Dr.(Mrs.) S.K.Bhatia, Assistant Advocate General, Punjab versus State of Punjab and others].

[8] In the above-stated writ petition, the clause contained in the appointment letter of Law Officers serving in the office of Advocate General, Punjab that they will not be entitled to “any other benefits viz. pension, gratuity, and encashment of leave etc.”, was under challenge.

[9] It is undeniable that the aforesaid clause was struck down by a learned Single Judge of this Court in Dr.(Mrs.) S.K.Bhatia's case and intra-court appeal against that judgment was also dismissed by a Coordinate Bench on 06.02.1998. The matter was taken to the Hon'ble Supreme Court in Civil Appeal No.5810 of 2000 which too was dismissed vide judgment dated 17.03.2009 (Annexure P-8).

[10] There is no quarrel that the respondent was appointed on the terms and conditions which were identical to those of one Suresh Kumar Sharma who was appointed as Assistant Advocate General, Punjab, on 28.04.1986. Said Suresh Kumar Sharma also sought pension and other retiral benefits on attaining the age of superannuation which were denied to him. He successfully challenged the action of State of Punjab before this Court and finally the matter was taken up before the Hon'ble Supreme Court in Civil Appeal No.7872 of 2004 (State of Punjab and another versus Suresh Kumar Sharma).

[11] In that appeal, the State of Punjab sought to draw distinction between the cases of Dr.(Mrs.) S.K.Bhatia and that of Suresh Kumar Sharma. Their Lordships rejected such a plea and dismissed the appeal vide judgment dated 23.09.2010

(Annexure P-9). The claim of Suresh Kumar Sharma for pensionary and other benefits was, thus, finally upheld.

[12] Since the respondent was also appointed on identical terms and conditions, the learned Single Judge has accepted his claim relying upon the decisions in the cases of Dr.(Smt.) S.K.Bhatia and Suresh Kumar Sharma (supra).

[13] We have heard Mr.J.S.Puri, learned Additional Advocate General, Punjab, in support of the appeal.

[14] It may be true that terms and conditions of appointment of the Law Officers in the office of Advocate General, Punjab, have changed in the year 2002 with an intent to deny pension or other retiral benefits to the incumbents but such a change, if any, has no effect or bearing in the case in hand where the respondent was appointed in the year 1993. The terms and conditions of his appointment have not been changed retrospectively nor it could be done so. Since the respondent was employed on the terms and conditions which were identical to those of Suresh Kumar Sharma, in whose case the Apex Court declined to draw any artificial distinction between his claim or that of Dr.(Smt.) S.K.Bhatia, we find that the learned Single Judge has rightly relied upon the binding precedents.

[15] No case thus to interfere with the impugned order is made out.

[16] Dismissed.

[SURYA KANT]
JUDGE

June 30, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE