

204

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

LPA No.191 of 2013 (O&M)

Date of Decision: 14.09.2016

State of Punjab and others

..... Appellants

Versus

Avtar Singh and others

..... Respondents

**CORAM: HONBLE MR. JUSTICE SURYA KANT
HONBLE MR. JUSTICE SUDIP AHLUWALIA**

- | | |
|--|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |
| 3. Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |
| 4. To be referred to the Reporters or not? | Yes/No |
| 5. Whether the judgment should be reported in the Digest? | Yes/No |

Present: Mr. Rajesh Bhardwaj, Addl. A.G., Punjab.

None for the respondents.

SURYA KANT J. (ORAL)

This Letters Patent Appeal has been filed by the State of Punjab against the order dated 06.01.2011 whereby learned Single Judge has held the private-respondents entitled to minimum of the pay-scale of the categories to which they belong, with all allowances as revised from time to time but payment of arrears has been restricted to three years preceding the filing of the writ petitions in each case. The appeal has been filed along with an application for condonation of delay of 724 days. It is averred in the application that certified copy of the judgment was received on 04.04.2011 but instead of filing the Letters Patent Appeal, Special Leave Petition was filed in the Hon'ble Supreme Court. The Special Leave Petition came up for hearing on 03.01.2012 when it was pointed out that remedy of Letters Patent

Appeal is available against the order of learned Single Judge. The Special Leave Petition was thus withdrawn. It is further averred that thereafter sanction for filing the appeal was obtained on 16.04.2012. However, the appeal was actually filed on 29.1.2013. There is not even a whisper as to what prevented the appellants from filing the appeal after withdrawal of the Special Leave Petition and when sanction to file the same had been granted on 16.04.2012. Almost seven months time has been taken in filing the appeal thereafter, though the appellants are fully aware of the fact that such an appeal could be filed within 30 days only. The application is accordingly dismissed. The accompanying appeal would ordinarily meet with the same fact.

2. The record, however, reveals that the respondents had put in appearance through their counsel on 02.04.2013 and 22.07.2013 but thereafter no one has appeared on their behalf on at least seven occasions. Today also, the respondents are unrepresented. Nevertheless, we have heard learned State counsel on merits also.

3. On merits, the only question that arises for consideration in this appeal is whether the respondents are entitled to payment of arrears of regular pay-scale for a period of three years preceding the date of filing the writ petition as has been granted by learned Single Judge?

4. It is undeniable that while accepting the claim of arrears of three years preceding the date of filing of the writ petition, learned Single Judge has relied upon some previous decisions of this Court, which were passed by learned Single Judge and upheld in intra Court appeal. Some of those matters are pending in the Hon'ble Supreme Court and *ad interim* stay has also been granted.

5. This case has been adjourned time and again on several occasions to await the decision of the Hon'ble Supreme Court.

6. With a view to avoid multiplicity of litigation between the parties more-so when the respondents are unrepresented and being Class IV employees, may not be in a position to come forward and defend themselves, we dispose of this appeal with a direction to the appellants that in a case the earlier order passed by this Court regarding payments of arrears of three years in similar circumstances are upheld by Hon'ble Supreme Court in such eventuality, the respondents in the instant case shall also be entitled for same relief. However, if those orders are set aside, the instant appeal shall also be taken to have been allowed and of course the respondents will not be entitled to any relief on the principle of parity.

7. Disposed of.

(SURYA KANT)
JUDGE

14.09.2016

Bhumika

(SUDIP AHLUWALIA)
JUDGE