

LPA No.1783 of 2015 (O&M),
LPA No.100 of 2016 (O&M) and
LPA No.24 of 2016 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: May 04, 2016
LPA No.1783 of 2015 (O&M)

State of Haryana and others
Versus
.....Appellants

Des Raj Sharma
.....Respondent

LPA No.100 of 2016 (O&M)

State of Haryana and others
Versus
.....Appellants

Ishwar Singh
.....Respondent

LPA No.24 of 2016 (O&M)

State of Haryana and others
Versus
.....Appellants

Bhim Singh Saini
.....Respondent

CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Ms. Kirti Singh, DAG Haryana.

- 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 order shall dispose of the LPA Nos.1783 of
2015, 100 of 2016 and 24 of 2016, which have been preferred
by the State of Haryana against the order dated 10.05.2011 of

the learned Single Judge, whereby, writ petition filed by the respondents was disposed of in terms of earlier decision of this Court in Ram Chander Gupta's case.

The controversy in this case pertains to fixation of pay on promotion as Head Master. In Ram Chander Gupta's case also, the controversy was identical, namely, as to whether he was entitled to be fixed at ₹2,450/- (basic pay) as on 06.10.1986 after his promotion from the post of Lecturer (school cadre) to the post of Head Master and further at ₹2,525/- w.e.f. 01.04.1987 or that his basic pay ought to have remain same as on 01.04.1987 also? In Ram Chander Gupta's case, which was a Regular Second Appeal arising out of judgment and decree of Civil Courts, the claim of the promotee-Head Master was upheld.

The learned Single Judge in the instant case followed Ram Chander Gupta's case and disposed of the writ petition in same terms.

The Letters Patent Appeals have now been filed along with applications for condonation of delay of 1596, 1605 and 1673 days (in respective appeals), on the ground that Rule 4.4 of Civil Services Rules Volume I Part 2 was completely overlooked by the learned Single Judge while deciding Ram Chander Gupta's case as well as passing the order under appeal, hence these are *per incuriam* in nature.

It is not necessary for us to give a final opinion on

the contention raised by learned State counsel. Suffice to mention that in the case in hand, the case of the appellants is that the basic pay of the respondent (Des Raj Sharma) ought to have been at ₹10,000/- as on 01.04.2001 but it was wrongly fixed at ₹10,250/-. He admittedly retired from service on 31.05.2002. In these circumstances, if the respondent is summoned to call upon to contest the contention, the cost of litigation for him will be much more than the amount sought to be recovered.

Besides the old age of the respondent-retiree, we cannot overlook the inordinate delay in filing the appeals.

We are, however, prima-facie satisfied that the contention raised on behalf of the appellants deserves serious consideration and need to be gone into in an appropriate case. As a necessary corollary, we hold that the order under appeals passed by the learned Single Judge shall not be taken as a binding precedent in future cases.

Disposed of.

[SURYA KANT]
JUDGE

[A.B. CHAUDHARI]
JUDGE

May 04, 2016
mahavir