

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1832 of 2016 (O&M)

Date of Decision: 19.09.2016

The Indian Council of Social Science Research
North-Western Regional Centre Punjab University ... Appellant

VS.

Chuni Lal ... Respondent

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

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

Present: Mr. SK Sharma, Advocate for the appellant

Mr. RK Chopra, Senior Advocate with
Mr. Pawan Kumar, Advocate for the respondent

SURYA KANT, J. (Oral)

(1) Notice of motion. On our asking, Mr. Pawan Kumar, Advocate accepts notice on behalf of respondent. Let a copy of the paper-book be handed over to counsel for the respondent during the course of day.

(2) Heard learned counsel for the parties.

(3) The instant Letters Patent Appeal assails the order dated 02.08.2016 whereby learned Single Judge has allowed the writ petition of the respondent and has held that he was appointed on compassionate grounds under the *ex gratia* policy and such appointment be treated on regular basis. The respondent has also been held entitled to all service benefits including arrears of salary for the intervening period till date along with interest @ 6% per annum besides costs of ₹10,000/-.

(4) The facts are not in dispute.

(5) The father of respondent was working as Class-IV employee on the post of Bearer-cum-Masalchi-cum-Chowkidar-Attendant. He served the appellant for more than 24 years when he unfortunately passed away in harness on 10.11.2010. Immediate thereafter, the respondent was appointed on the same post and as per the appointment letter, such appointment was on contract basis for six months. The appointment was further extended but thereafter the authorities declined to renew the appointment compelling the respondent to approach this Court.

(6) The issue that arose for consideration of learned Single Judge was whether, in the facts and circumstances, the appointment of the respondent was relatable to the death of his father while in service?

(7) Learned Single Judge has answered and rightly so that the respondent was appointed for all intents and purposes on the Class-IV post on compassionate grounds soon after the death of his father. It is not in dispute that the post was not advertised nor any selection process was initiated before offering appointment to the respondent on 'contract basis'. It was thus an appointment on compassionate grounds only. The appellant-authorities, having resolved to offer appointment to respondent keeping in view the mitigating circumstances and sudden loss of the source of sustenance of the family, ought not to have acted indifferently after a year or so by not renewing the appointment of the respondent especially when there was no complaint whatsoever with regard to his work or conduct. In these circumstances, the declaration granted by learned Single Judge that the appointment of respondent be read down on regular basis under the *ex gratia* policy does not warrant any interference by this Court.

(8) Faced with this, learned counsel for the appellant submits that learned Single Judge ought not to have granted arrears of pay for the period the respondent did not work as well as the costs. We have persuaded learned counsel for respondent to forego the claim of arrears of pay and the cost though the respondent shall be entitled to all notional benefits as well as salary w.e.f. 01.08.2016. He has agreed to it, hence ordered accordingly.

(9) With these observations and directions, the appeal stands disposed of.

(Surya Kant)
Judge

19.09.2016
vishal shonkar

(Sudip Ahluwalia)
Judge