

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.1866 of 2016 (O&M)

Date of Decision: September 24, 2016

Hoshiyar Singh and another

.....Appellants

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.Vivek Khatri, Advocate, 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)

The appellants have laid challenge to the order dated 31.08.2016 whereby learned Single Judge dismissed their writ petition and has approved the department's order to the effect that the appellants are required to qualify the type-test to become eligible for the grant of annual increments.

Learned Single Judge has held so keeping in view the fact that a specific condition was incorporated in the promotion order of the appellants when they were brought from Class-IV to Class-III establishment and it is expressly required in the statutory rules also that unless the appellants qualify the type-test, they cannot earn the annual increment.

Somewhat identical situation arose for our consideration in

LPA No.847 of 2012 (Lal Chand versus State of Haryana and others) which

was disposed of vide order dated 01.08.2013 in the following terms:-

“..... We are informed that the appellant joined the Department as a Class-IV employee and was promoted as Clerk when he was near the age of retirement. The appellant has meanwhile retired from service. That can be a factor to persuade the Competent Authority to grant relaxation in the Rules, may be prospectively, which would enable the appellant to draw higher pension and other retiral benefits only.

As observed earlier, the decision to relax the Rules can be taken by the authorities with whom such power is vested under the Rules.

Consequently, we dispose of this appeal by modifying the order of learned Single Judge to the extent that the respondents may consider the appellant's claim for relaxation in Rules sympathetically and pass an appropriate order within a period of four months from the date a certified copy of this order is received.....”

The instant appeal is accordingly disposed of in the above-terms.

[SURYA KANT]
JUDGE

September 24, 2016
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No