

206

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

**LPA No.895 of 2014
Date of Decision: 20.10.2016**

Amrik Singh

..... Appellant

Versus

State of Punjab 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. Onkar Singh, Advocate,
for the appellant.

Mr. Rajesh Bhardwaj, Addl. AG, Punjab.

Mr. K.S. Boparai, Advocate,
for respondent No.3.

SURYA KANT J. (ORAL)

1. The appellant was due for promotion as Superintendent Grade-I somewhere in the year 2007-08. He was denied such promotion for the reason that there were adverse remarks in his Annual Confidential Report for the year 2008-09. His representation against those remarks was accepted and the adverse remarks were expunged. His claim for promotion was still not considered despite repeated representations. The appellant retired from service on attaining the age of superannuation on 31.03.2014. Thereafter, he filed writ petition claiming promotion from the due date but the learned

Single Judge has dismissed the same on the premise that the appellant cannot raise issues relating to his service career, after retirement. Hence, this Letters patent Appeal.

2. Having heard learned counsel for the parties, it appears to us that since the appellant was due for promotion much before his retirement and he continued to ventilate his grievances, learned Single Judge ought not to have rejected his claim on the ground that he approached the Court after retirement.

3. The authorities were directed on 08.08.2016 to explain the impediment, if any, due to which, the claim of the appellant for promotion cannot be considered.

4. The second respondent has filed his affidavit informing that once again the authorities have declined the appellant's claim on the plea that "the promotion of the employee remained under consideration with the authority but in the meantime the appellant retired on 31.3.2014".

5. Such an objection by the authorities is totally untenable and least to say, is bordering perversity. The appellant has been compelled to rush to the Court due to inaction of the authorities. If he has retired from service that is not his fault. He was due for promotion in the year 2008-09 and had there been timely consideration, he would have been promoted well before his retirement. The respondents cannot take undue advantage of their own illegal action.

6. In the light of the above discussion, we allow this appeal; set aside the order dated 02.05.2014 passed by the learned Single Judge and direct the authorities to consider the appellant for promotion to the post of Superintendent Grade-I from the due date and if found entitled to as per the

service record and other eligibility conditions, grant him such promotion retrospectively with all consequential benefits.

7. The needful shall be done within a period of three months from the date of receipt of certified copy of this order.

**(SURYA KANT)
JUDGE**

20.10.2016

vishal shonkar

**(SUDIP AHLUWALIA)
JUDGE**