

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

LPA No.241 of 2016 (O&M)

Date of Decision: 01.08.2016

State of Haryana and others

..... Appellants

Versus

Gajraj Singh

..... Respondent

**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?
4. To be referred to the Reporters or not?
5. Whether the judgment should be reported in the Digest?

Present: Mr. R.D. Sharma, DAG, Haryana.

None for the respondent.

SURYA KANT J. (ORAL)

1. This Letters Patent Appeal assails the order dated 11.03.2015 whereby the learned Single Judge allowed the writ petition and held the respondent entitled to special pay of ₹300/- per month, with a further direction to release the retiral benefits as per such revised pay-scale.

2. The appeal is accompanied by an application under Section 5 of the Limitation Act seeking condonation of delay of 281 days in filing the appeal. It is averred that after taking legal opinions from the office of the Advocate General and the Legal Remembrancer, Haryana on 09.06.2015, the matter was referred to the Finance Department for further advice on 12.08.2015. It appears that the Finance Department wanted the appeal to be filed hence the decision was taken in December, 2015 and thereafter, the appeal was filed in February, 2016. In our considered view, there is no justifiable explanation for the inordinate delay more so when the time limit

to file an intra Court appeal is 30 days only. The application for condonation of delay is thus dismissed.

3. Having held so, we may now advert to the merits of the case as well. The only issue which arose for consideration of learned Single Judge was whether the respondent, who was working as a Driver in the Transport Department, was entitled to continue with the special pay of ₹300/-, which was granted to him while he was posted in the Ministers' Car Section, even after his transfer from the said section?

4. Learned Single Judge has allowed the claim on interpretation of some instructions read with Rule 4.4 Civil Services Rules, Volume-I, Part-I.

5. Though there is some merit in the contention of the appellants that 'special pay' is attached to the post and is admissible so long as the incumbent occupies such post and that 'special pay' is not granted as a permanent addition to the time-scale. Nevertheless the afore-stated issue need not be gone into in the instant case for the reason that the respondent has retired from service and the benefit admissible under the impugned judgment has already been granted to him. We thus decline to interfere with the order of the learned Single Judge but the legal issue decided by the learned Single Judge is kept open, to be gone into an appropriate case.

6. Dismissed.

(SURYA KANT)
JUDGE

01.08.2016

Bhumika

(SUDIP AHLUWALIA)
JUDGE