

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

**LPA No.275 of 2016 (O&M)
Date of Decision : 23.02.2016**

State of Haryana and another

....Appellants

Versus

Krishan Chander Rana

....Respondent

**CORAM: HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present:- Mr.Sandeep Moudgil, Addl. AG, Haryana
for the appellants.

HARINDER SINGH SIDHU, J.

This intra Court appeal under clause X of the Letters Patent has been filed against the judgment dated 09.04.2015 whereby the writ petition (CWP No.2240 of 2011) filed by the respondent praying for granting him the pay scale of the post of Superintendent for the period he performed the duties of that post was allowed.

Respondent was initially appointed as Clerk on 21.9.1971. In course of time, he earned promotions as Assistant and later as Deputy Superintendent. Vide order dated 1.3.2007 he was given charge of the post of Superintendent in his own pay scale, though the order wrongly mentioned it as promotion. He served in that capacity till his retirement on attaining the age of superannuation. When his claim for being paid the salary of the post of Superintendent for the period he worked as such was denied, he filed the writ petition which has been allowed with a direction to

the appellants to release him the salary of Superintendent for the period

for which he officiated or performed the duties as Superintendent.

The only contention of learned counsel for the appellant is that as per the Haryana School Education Department Sub Offices Ministerial (Group-B) Service Rules 1998, three years experience as Dy. Superintendent is mandatory for being promoted to the post of Superintendent. At the time when the respondent was given the charge of the post of Superintendent on 1.3.2007 he had only one month's experience as he had been promoted as Dy. Superintendent on 5.2.2007. Hence, it is argued that as he was not eligible for promotion to the post of Superintendent he could not also be given the salary and pay of Superintendent.

This argument of learned counsel for the appellant cannot be accepted in view of the decision of a Full Bench of this court **Subhash Chander v. State of Haryana** [2012\(1\) S.C.T. 603](#), wherein, the question to be answered was:

"Whether an employee who is given independent charge and responsibility of a higher post alone is entitled to regular pay scale without being substantively appointed to such post".

The Full Bench answered the same in affirmative holding:

"17. In view of the above, the question posed in para No.1 is answered in affirmative and it is held that if an employee is appointed to officiate on a post involving assumption of duties and responsibility of greater importance than those attaching to the substantive post then he would be entitled to the salary of his officiating post in higher grade. Accordingly, the petitioner is held entitled to the higher pay scale from the date he has assumed the charge of the post of Secretary with all consequential benefits including promotion. His pay may be re-fixed and the arrears of his

pay shall be calculated from the date when he has been officiating on the post of Secretary, Municipal Committee....”

Accordingly, there is no merit in the appeal and the same is hereby dismissed.

(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)
JUDGE JUDGE

23.02.2016
Atul/dinesh