

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.982 of 2016 (O&M)

Date of Decision: July 04, 2016

Manmohan Singh

.....Appellant

versus

The State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE DARSHAN SINGH.**

Present: Mr.Surjit Singh Chauhan, Advocate, for the appellant.
Mr.N.D.S.Mann, Additional Advocate General, Punjab.

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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)

Notice of motion.

Notice re: condonation of delay as well.

On our asking, Mr.N.D.S.Mann, learned Additional Advocate General, Punjab, accepts notice on behalf of the respondents.

Let three copies of the paper book be handed over to him during the course of day.

CM No.2035 of 2016

For the reasons mentioned in the application, the same is allowed subject to all just exceptions and 2 days' delay in filing the appeal is condoned.

CM stands disposed of.

LPA No.982 of 2016

This letters patent appeal assails the order dated 26.04.2016

whereby the learned Single Judge has dismissed the appellant's writ petition

in *limine* on the ground that the period from 01.10.2008 to 31.10.2009 when the appellant worked as Block Primary Education Officer, he has been paid the emoluments of that higher post. Those emoluments were paid in terms of the directions issued by this Court in the case of Darshan Singh and others versus State of Punjab. The learned Single Judge has further observed that since the petitioner was a co-petitioner in the previous writ petition where the relief, now sought by him, was not expressly granted and is deemed to have been declined, as such the second writ petition was not maintainable.

[2] On the abstract principle of law, we respectfully agree with the view taken by the learned Single Judge and find no infirmity in the order under appeal.

[3] Faced with this, learned counsel for the appellant refers to an order dated 12.03.2013/11.04.2013 said to have been passed by the Principal Secretary to Government of Punjab, Department of School Education in the case of one Kulwant Singh son of Man Singh, Principal of Government Senior Secondary School, Bassi, District Kapurthala and others. The Principal Secretary, relying upon an earlier decision of this Court in the case of Bhim Sen and others versus State of Punjab read with Rule 4.4 (c) (i) of Punjab Civil Services Rules, Volume I Part I, has concluded as follows:-

“.....6. As per the provisions contained in above said Rules and the judgments of the Hon'ble High Court, benefits can be awarded to those persons who have discharging the duties carrying higher responsibility and Drawing & Disbursing Officer.

7. Keeping in view what has been stated above I, Anjali Bhawra, Principal Secretary to Government of

Punjab, Department of School Education, comes to the conclusion that the claim of the petitioners cover under the provisions of 4.4 (c) (i) in the Punjab Civil Service Rules Volume I Part I. Hence the claim of the petitioners to grant them the benefit of Higher Responsibilities is hereby accepted. Speaking order passed by District Education Officer (SE) Gurdaspur vide letter No.E-2012 (E-6) 878 51-53 dated 27.12.2012 stand withdrawn....”

[4] In the absence of specific pleadings, we cannot opine whether the case of the appellant is at par with that of Kulwant Singh and others, decided by the Principal Secretary vide the above reproduced order. Nevertheless, it is imperative upon the authorities to take a uniform view in respect of all the similarly placed employees. The instant appeal is thus disposed of without expressing any views on merits, with partial modification of the order passed by learned Single Judge, to the extent that let the Principal Secretary, Government of Punjab, Department of School Education consider the claim of the appellant also in the light of the above-reproduced order.

[5] Let an appropriate order in this regard be passed within a period of four months from the date of receiving a certified copy of this order.

[SURYA KANT]
JUDGE

July 04, 2016
mohinder

[DARSHAN SINGH]
JUDGE