

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH.**

LPA No. 368 of 2012. [O&M]
Date of Decision: 28th July, 2016.

State of Punjab Appellant.

Versus

Smt. Shakuntala Devi & Ors. Respondents

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

Present: Mr. Rajesh Bhardwaj, Additional AG, Punjab,
for the appellant.

None for the respondents.

SURYA KANT, J. [ORAL]

This Letters Patent Appeal is preferred by the State of Punjab against the order dated 01st April, 2011 passed by learned Single Judge in RA No. 235 of 2010 whereby Review Application was allowed and the order dated 30th June, 2010 dismissing the writ petition was modified with a direction to the appellant -State to grant notional promotions to the writ petitioner and consequential terminal benefits to his legal representatives except the arrears of pay. Further, the arrears arising out of the revised terminal benefits were ordered to be released.

[2]. Prem Saran Verma [since deceased] filed the writ petition in the year 1991 seeking a direction to implement the Circular dated 21.07.1978 [P-8] which was for fixation of seniority of Consolidation Staff on its absorption in the Revenue Department. The plea taken was that since the said Circular stood upheld by the Full Bench of this Court, the writ

petitioner, who was also a surplus employee of the Consolidation Department and absorbed in the Irrigation Department, was entitled to the benefit of seniority in terms of that Circular. It appears that some other writ petitions claiming similar relief were dismissed by a learned Single Judge on 13th June, 2010. Some of the affected employees including Sham Lal Gupta and others filed LPA No. 342 of 2011 and a Division Bench of this Court dismissed those appeals on 03rd August, 2011. The reason assigned by the learned Single Judge as well as Division Bench was that though the Circular was upheld by the Full Bench but the employees like the present writ petitioner were not entitled to the relief of seniority due to delay and laches on their part. The Bench observed that settled seniority could not be unsettled at a belated stage.

[3]. It further emerges on record that Prem Saran Verma died and his legal representatives filed a Review Application in which the learned Single Judge vide the order under appeal dated 01st April, 2011 directed that the past service rendered by the deceased employee in the Consolidation Department has to be counted towards qualifying service for pension and other retiral benefits. The review application was accordingly allowed to the extent above.

[4]. The aggrieved State has preferred this appeal. Several efforts have been made to effect service on the son of the deceased employee who appears to be the sole surviving legal heir. It has been reported that he is settled in England. In these circumstances, we proceed to hear the appeal on merits.

[5]. We have heard learned State counsel who vehemently urges that the order under appeal dated 01st April, 2011 of the learned Single

Judge is directly in conflict with the Division Bench judgment dated 03rd August, 2011 rendered in LPA No. 342 of 2011 whereby the order of learned Single Judge dismissing the bunch of writ petitions including that of the deceased employee, has been upheld.

[6]. Having given our thoughtful consideration, we do not find any merit in the contention of the appellants. True it is that the claim of writ petitioners for counting of their service rendered in the Consolidation Department towards seniority in the Irrigation Department, was rejected on the ground that settled seniority could not be unsettled at such a belated stage. No exception can be taken to that settled principle. The order passed in the review application by the learned Single Judge is also not for counting the service of Consolidation Department towards seniority. The plain and simple direction is to reckon with the said service for the purposes of 'pension' and 'other retiral benefits', to which the deceased employee was otherwise entitled thereto. Such a claim is surely admissible under Rule 3.17 of the Punjab Civil Service Rules, Volume 2, Chapter I-General, relevant part of which reads as follows:-

“3.17: If an employee was holding substantively a permanent post on the date of his retirement, his temporary or officiating service under the State Government, followed without interruption by confirmation in the same or another post, shall count in full as qualifying service.....”.

[6]. As the service rendered in the Consolidation Department as well as in the Irrigation Department both are on pensionable establishments and both the services were rendered under the State of Punjab, the same have to be clubbed together for the purpose of determining the qualifying

service of the deceased employee for pension and other retiral benefits.

[7]. In this view of the matter, the order passed by the learned Single Judge calls for no interference.

[8]. Dismissed.

(SURYA KANT)
JUDGE

July 28, 2016.
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(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No