

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.1430 of 2016 (O&M)

Date of Decision: March 02, 2017

Haryana Vidyut Prasaran Nigam Limited and othersAppellants

versus

Roshan Lal and othersRespondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.Ashishek Arora, Advocate, for
Mr.Sumit Jain, Advocate, for the appellants.

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Surya Kant, J. (Oral)

This letters patent appeal is directed against the order dated 09.02.2016 vide which learned Single Judge has accepted the claim of private-respondents for the grant of ACP Scale.

[2] The question which fell for consideration of the learned Single Judge was whether or not the private-respondents were entitled to get their services counted from the 'deemed dates of appointment' assigned to them on notional basis, for the purpose of determining eligibility for the grant of ACP scale ?

[3] The said question has been answered in affirmative in favour of private-respondents.

[4] The facts are not in dispute. The private-respondents were amongst the candidates selected for appointment to the posts of Assistant Linemen and Shift Attendants. They would have been appointed w.e.f. the year 1997, if the appointments were made on the basis of merit list and applying the principles of law laid down by Hon'ble Supreme Court in

Indra Sawhney and others versus Union of India, 1992 Suppl.(3) SCC 217.

The private-respondents were thus compelled to approach this Court by way of a bunch of writ petitions which were allowed on 03.12.2008. The said judgment was not implemented until the private-respondents initiated contempt of Court proceedings by way of COCP No.1011 of 2011. Eventually, they were given appointment and were assigned seniority with effect from the year 1997 on notional basis. The private-respondents were granted the benefit of ACP scale on completion of 10 years' regular service, vide order dated 31.05.2012 but soon thereafter, the said order was withdrawn on 04.02.2013 on the premise that they had actually not worked for 10 years.

[5] Learned Single Judge has set-aside the above-stated order and has held the private-respondents entitled to grant of ACP scale.

[6] It may be seen that private-respondents were deprived of appointment due to the fault on the part of the authorities and their stand to seek appointment was vindicated before this Court. Once the earlier decision directing their appointments with all consequential benefits including notional seniority has attained finality and it has been given effect by the appointing the respondents on notional basis from the year 1997, they shall be deemed to be in regular service since then for all intents and purposes, even if the actual appointment took place in the year 2011 or so. Any contrary view at this stage would lead to deprive the private-respondents from the “consequential benefits” which were granted by this Court in earlier round of litigation.

[7] Learned counsel for the appellants fairly states that meanwhile the order passed by learned Single Judge has given effect and due benefits

have been granted to private-respondents.

[8] For the reasons afore-stated, we do not find any merit in this appeal which is accordingly dismissed.

[SURYA KANT]
JUDGE

March 02, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No

CM No.2989 of 2016 in
LPA No.1430 of 2016

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Haryana Vidyut Prasaran Nigam Limited and others
versus
Roshan Lal and others

Present: Mr.Ashishek Arora, Advocate, for
Mr.Sumit Jain, Advocate,
for the applicant-appellants.

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For the reasons mentioned in the application, the same is allowed
subject to all just exceptions and 112 days' delay in filing the appeal is
condoned.

CM stands disposed of.

(SURYA KANT)
JUDGE

March 02, 2017
mohinder

(SUDIP AHLUWALIA)
JUDGE