

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.799 of 2015 (O&M)

Date of Decision: 28.02.2017

State of Punjab & Ors.

... Appellants

VS.

Madhu Gupta & Ors.

... Respondents

LPA No.827 of 2015 (O&M)

State of Punjab & Anr.

... Appellants

VS.

Mukhtiar Singh & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

Present: Mr. Rajesh Bhardwaj, Addl. AG Punjab

Mr. Arvind Galav, Advocate for
Mr. Dinesh Kumar, Advocate
for respondents No.1, 2 & 6 (in LPA-799-2015)

Mr. Amit Shukla, Advocate
for respondents No.3 to 5 (in LPA-799-2015)

Mr. PS Khurana, Advocate for respondents (in LPA-827-2015)

SURYA KANT, J. (Oral)

(1) The above-captioned two Letters Patent Appeals are directed against the order dated 27.11.2014 whereby learned Single Judge has directed the absorption of employees of Punjab Women & Children Development and Welfare Corporation who were rendered surplus beyond the functional requirement of the Corporation and were retrenched in due course of time. The primary grievance of the writ petitioners was that the principle of *last-come-first-go* had worked completely to the disadvantage and detrimental to the interest of senior employees for the reason that the juniors were declared surplus first and they were immediately adjusted in

Government services or in other Government organizations as per the State Government policy whereas the seniors who were retrenched later on were denied such relief due to the expiry of the cut-off date, prescribed for consideration of the claim for absorption.

(2) When the writ petitions came up for hearing, the respondent-writ petitioners made a statement before the learned Single Judge that irrespective of the qualification possessed by them, they were willing to work on a post of lower status. The learned Single Judge therefore directed for their adjustment but with a rider that they shall not be paid anything for the intervening period.

(3) When this appeal (LPA-799-2015) came up for hearing on 07.07.2015, this Court passed the following order:-

“On May 27, 2015, when this appeal came up for preliminary hearing, learned State counsel, after arguing the same for some time, sought adjournment to have fresh instructions from the Competent Authority. We pointed out to him that this is a peculiar case where the principle of ‘last come first go’ has worked to the disadvantage of seniors who were retained in the service and meanwhile their juniors were adjusted in Government departments. After few months, these seniors were shown the exit door but they were not adjusted as per the previous practice/Policy only because they were rendered surplus after the cut off date. Prima-facie, the view taken by learned Single Judge appears to be in conformity with the doctrine of equality and equity.

Mr. Aman Bahri, learned Additional Advocate General, Punjab, however, seeks more time to have clear instructions.”

(4) In deference thereto, the State Government has since adjusted 6 out of 9 writ petitioners. As regard to remaining 3 writ petitioners, namely, Smt. Sahib Kaur, Smt. Usha Bhola and Smt. Manmohan Kaur, the status report-cum-affidavit filed today in Court reads as follows:-

“That it is humbly submitted that the remaining 3 petitioners could not be absorbed in the appellant department as they had already crossed the age prescribed for superannuation (58 years) on 27.01.2017 [sic 27.11.2014] itself i.e. the date of decision rendered by this Court in the CWPs mentioned in Para NO.1 of this affidavit. The list of such petitioners is given in the table below.

<i>Sr.No.</i>	<i>Name of the petitioner</i>	<i>Date of Birth</i>	<i>No. of the CWP involved</i>
<i>1</i>	<i>Sahib Kaur</i>	<i>15.12.1955</i>	<i>CWP No.526 of 2012</i>
<i>2.</i>	<i>Usha Bhola</i>	<i>10.10.1955</i>	<i>CWP No.526 of 2012</i>
<i>3.</i>	<i>Manmohan Kaur</i>	<i>06.06.1956</i>	<i>CWP No.526 of 2012”</i>

(5) Having heard learned counsel for the parties and keeping in view the fact that the State Government has substantially complied with the order passed by learned Single Judge, we are satisfied that these appeals have been rendered infructuous and are disposed of accordingly.

(6) As regard to the three retrenched writ-petitioners referred to above who could not be adjusted as they had already crossed the age of superannuation before the decision of the learned Single Judge, no effective

relief can be granted in these proceedings except to direct the State authorities to explore the possibility of their re-employment on contract basis in some Government organization, Commission or Board where services of retired employees are needed. We see no reason why the above-named writ petitioners be not adjusted for a term of at least 2 to 3 years in an organization where there is urgent need of engaging experience hands on contract/re-employment basis. The Chief Secretary, Punjab will find out from the Boards/Corporations/Commissions/other Government institutions and wherever such requirement is there the above named three officials shall be adjusted.

(7) Ordered accordingly.

(Surya Kant)
Judge

28.02.2017
vishal shonkar

(Sudip Ahluwalia)
Judge

1. Whether speaking/reasoned?	Yes
2. Whether reportable?	No