

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.2140 of 2016 (O&M)

Date of Decision: 01.03.2017

Hem Chander

... Appellant

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

Present: Mr. Shilak Ram Hooda, Advocate for the appellant

SURYA KANT, J. (Oral)

(1) Notice of motion. On our asking, Mr. Deepak Balyan, Addl. AG Haryana accepts notice. Let requisite copies of the paper-book be handed over to learned State counsel during the course of day. No reply is required to be filed by the respondents in view of the nature of order proposed to be passed.

(2) This Letters Patent Appeal assails the order dated 26.04.2016 vide which the writ petition filed by the appellant has been dismissed *in limine*. Before we advert to the nature of reliefs sought by the appellant in appeal or before the learned Single Judge, a brief reference to the facts may be made.

(3) The appellant was appointed as a work-charge Chowkidar on 01.10.1977. Thereafter he was deployed for Canal Patrolling. His services were dispensed with on 13.10.1982. The matter regarding termination of the appellant's services reached upto the Hon'ble Supreme Court when vide order dated 13.03.1989 (P1), the appellant and other similarly situated employees were ordered to be reinstated but with a direction that "so far as the period they are out of employment is concerned, they would not be entitled to any benefit".

(4) The appellant was also reinstated in service on 04.05.1989. After counting the length of his service from the said date, his services were regularized w.e.f. 01.04.1993. From the reading of the prayer clauses of the writ petition, it appears that the appellant made an abortive attempt to wriggle out of the above-stated condition imposed by the Hon'ble Supreme Court and sought certain reliefs which would amount to condoning the break between the date of termination of services and the date of reinstatement. Since no benefit can be granted for the period he remained out of employment, we are satisfied that the date of appointment of the appellant has to be treated as 04.05.1989 for the purpose of all service benefits except the pension for which the previous service can also be taken into account as per Rules.

(5) Based upon the date of appointment as 04.05.1989, if the appellant is entitled to grant of ACP or any other service benefit, such benefits will have to be extended to him in accordance with Rules/Scheme. The appeal as well as writ petition are accordingly disposed of with a direction to respondent No.3 to 7 to call for the records and determine whether or not the appellant is entitled to service benefits like ACP and/or any other related benefit. Such claim shall be determined within four months from the date of receipt of certified copy of this order.

(6) Ordered accordingly.

(Surya Kant)
Judge

01.03.2017
vishal shonkar

(Sudip Ahluwalia)
Judge