

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.2474 of 2016 (O&M)
Date of Decision: April 06, 2017

Joginder Singh

.....Appellant

versus

State of Haryana and others

.....Respondents

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

Present: Mr.Parveen Bhardwaj, Advocate, for the appellant.
Mr.Deepak Balyan, Additional AG, Haryana.

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Surya Kant, J. (Oral)

Notice of motion.

On our asking, Mr.Deepak Balyan, learned Additional Advocate General, Haryana, accepts notice on behalf of the respondents.

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

[2] The instant letters patent appeal is directed against the order dated 30.11.2016 vide which the appellant's writ petition seeking a direction to consider him for retrospective promotion has been dismissed by the learned Single Judge on the ground of unexplained delay and laches. Learned Single Judge has held so in the light of the fact that the appellant who was working as Junior Auditor, was convicted in a case registered under Sections 498-A/307/304-B/34 IPC. Firstly he was placed under suspension vide order dated 05.05.1998 and then on his conviction, the appellant was removed from service vide order dated 17.06.2003. He was however, acquitted by this Court vide order dated 24.03.2005 and thereafter

[3] The appellant was then promoted as Inspector (Audit) on 11.06.2007 but having regard to the fact that his juniors had been promoted while he was out of service, he raised a claim for retrospective promotion and finding no response to his representation, the instant writ petition was filed.

[4] Learned Single Judge has viewed that nothing precluded the appellant from approaching the Court while he was behind the bars for a period of almost eight years. Such a reasoning, in our considered view, is not correct on facts, for the appellant had been dismissed from service after his conviction and being no longer in service, he could not raise the claim for promotion. The cause of action accrued only after his reinstatement in service followed by promotion on 11.06.2007.

Consequently, the appeal is allowed in part; the order under appeal dated 30.11.2016 is set-aside and the writ petition is disposed of with a direction to the respondent-authorities to consider the appellant's claim for promotion from the due date in accordance with Rules/Policy/Law. In case the appellant is found entitled to such promotion, the same shall be granted on notional basis without payment of arrears of pay.

Let an appropriate decision in this regard be taken within a period of four months from the date of receiving a certified copy of this order.

[SURYA KANT]
JUDGE

April 06, 2017
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[SUDIP AHLUWALIA]
JUDGE

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