

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No.170 of 2017

Date of Decision: May 01, 2017

Sewa Singh

.....Appellant

Versus

State of Haryana and others

.....Respondents

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

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.J.K.Goel, Advocate
for the appellant.

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SURYA KANT, J.

Notice of motion.

[2] On our asking, Mr.Deepak Balyan, Additional Advocate General, Haryana, who is present in Court, accepts notice on behalf of all respondents. Let three sets of paper-book be handed over to him during the course of day.

[3] In view of the nature of the order which we propose to pass, there is no need to seek any reply-affidavit from the official respondents as no order prejudicial to its interest is being passed.

[4] This Letters Patent Appeal is directed against the order dated 19.10.2016 vide which learned Single Judge has relegated the appellant to the remedy of Civil Court on the ground that once he had served the authorities with a Legal Notice under Section 80 of the Code of Civil Procedure, it amounted to choosing the legal recourse and hence he cannot

file writ petition and instead should file a civil suit only.

[5] The controversy pertains to appellant's claim for regularisation of services. According to him, his services have been regularised w.e.f. 01.10.2003 but on notional basis only. He claims that he deserves to be granted all consequential benefits for the notional period.

[6] Having heard learned counsel for the parties, we are of the considered view that it is not necessary to relegate the appellant to Civil Court unless the matter involves seriously disputed questions of facts. The fact that appellant's services have been regularised w.e.f. 01.10.2003 is not in dispute. Similarly, such regularisation having been granted on notional basis is also an admitted fact. The question as to whether or not he is entitled to wages with effect from the date when his services were regularised is a question which can be determined by the authorities keeping in view the relevant judicial precedents, instructions and the Rule, if any.

[7] Consequently, we allow this appeal; set aside the order dated 19.10.2016 under appeal and dispose of appellant's writ petition without expressing any views on merit with directions to the respondents to consider the above mentioned claim of the appellant which is also contained in the Legal Notice dated 26.02.2016 and dispose of the same by passing a speaking order within a period of four months from the date of receipt of a certified copy of this order.

(SURYA KANT)
JUDGE

May 01, 2017

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(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/reasoned ?

Yes/No

2. Whether reportable ?

Yes/No