

LPA No. 1767 of 2017 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**LPA No. 1767 of 2017 (O&M)
Date of decision: 04.7.2018**

Kulwant Singh

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Sandeep Arora, Advocate
for the appellant.

ARUN PALLI, J.

This is an intra-court appeal under Clause X of the Letters Patent against the order and judgment dated 28.9.2016, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant has since been dismissed.

The facts that are required to be noticed are limited.

The appellant-petitioner was employed with the Punjab State Federation of Cooperative Sugar Mills Ltd. (respondent No.3). Originally, he joined as a Mill Worker in the Mill Cadre. While working as a Mill Worker, he encashed his earned leave for a period of 167½ days. Later in the year 1998, he was promoted as an Assistant Accounts Officer, and was, thus,

governed by the Common Cadre Rules, 1998. The appellant-petitioner retired from service on 31.8.2011, on attaining the age of superannuation.

Ex facie, the only argument that was advanced by the learned counsel for the appellant before the learned Single Judge was that appellant was willing to re-deposit the amount he had received on encashing the earned leave for a period of 167½ days, and instead, he be awarded the benefit of leave encashment for the said period, as per his last drawn salary as Assistant Accounts Officer.

On a consideration of the matter, the learned Single Judge reached a conclusion that appellant had encashed his earned leave for a period of 167½ days, as admissible under the rules, while working as a Mill Worker. And, owing to his promotion as Assistant Accounts Officer in the year 1998, his service conditions were governed by a separate set of rules, i.e. Common Cadre Rules. Nothing was brought on record to show that in the given situation, the appellant could re-deposit the amount he had withdrawn and utilised by encashing his earned leave, while he was working as Mill Worker in a different cadre, and claim the said benefit, as per his last drawn salary, while working on a higher post. No rule/regulation was cited to support such a proposition. Even otherwise, the matter at hands appears to be speculative in nature, as the present appeal was filed nearly after a year of the decision rendered by the learned Single Judge and the explanation rendered in the application under Section 5, seeking condonation of delay, is that post decision of the writ petition/review application, the appellant had gone to Uttar Pradesh to look after his landed property and was under a belief that there was no time limit to file an appeal against the decision dismissing his writ petition.

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Be that as it may, no ground is made out to interfere with the
impugned judgment. The appeal being devoid of merit, is accordingly
dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

July 04, 2018
AK Sharma

Whether speaking / reasoned:	YES
Whether Reportable:	