

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

1. LPA-37-2017
Date of Decision: September 25, 2018

State of Punjab and others

.....Appellants

Versus

Jagjit Singh and others

.....Respondent

2. LPA-2320-2016

Jaswant Singh and others

.....Appellant

Versus

The State of Punjab and others

.....Respondents

3. LPA-2310-2016

Charanjit Singh (Retd.) and others

....Appellants

Versus

State of Punjab and others

.....Respondents

4. LPA-06-2016

Gurdial Singh (Retd.) and others

.....Appellants

Versus

State of Punjab and others

.....Respondents

5. LPA-496-2017

Rajinder Paul (Retd.) and others

.....Appellants

Versus

State of Punjab and others

.....Respondent

6. LPA-2465-2016

Rameshwar Dass, Retd. and others

.....Appellants

Versus

State of Punjab and others

.....Respondents

7. LPA-2462-2016

Onkar Kumari

.....Appellant

Versus

The State of Punjab and others

.....Respondents

8. LPA-397-2017

Kashmir Singh (Retd.) and others

.....Appellants

Versus

State of Punjab and others

.....Respondents

9. LPA-181-2017

Shital Ram

.....Appellant

Versus

State of Punjab and others

.....Respondents

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

Present: Mr.Sandeep Vermani,Addl.AG, Punjab.

Mr.Harinder Sharma, Advocate

Mr.Sunny Singla, Advocate for the appellants.

Mr.M.S.Rana, Advocate for the appellants in LPA-181-2017

Mr.S.K.Rattan, Advocate for the appellants in LPA-2320 and
2462-2016.

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SURYA KANT, J.(ORAL)

CM-56-LPA-2017

For the reasons mentioned in the application, the same is
allowed and delay of 58 days in filing the appeal is condoned.

CM stands disposed of.

LPA-37-2017

This order shall dispose of the above captioned Letters Patent
Appeals as the point in issue involved in all the cases is common in nature.

For the sake of convenience, the facts are being extracted from LPA-37-
2017.

[2] State of Punjab has preferred this Letters Patent Appeal against the decision dated 09.09.2016 of the learned Single Judge whereby the order dated 20.10.2014 was set aside and a direction has been issued to fix the pension and retiral benefits of the respondents “on the basis of last pay drawn by them in their officiating capacity as Principal/Headmaster/Headmistresses except petitioners Nos.5, 6 and 16 as the State is not opposing their claim.” In other words, the learned Single Judge has held that out of 17 writ petitioners, three had been promoted as Principal/ Headmaster/ Headmistresses on regular basis and the State conceded their claim for fixation of pension and other retiral benefits as per the last pay drawn by them. In respect of remaining 14 writ petitioners, learned Single Judge has found that since they were also officiating as Principal/ Headmaster/ Headmistresses, they are entitled to pension and other retiral benefits as per the last pay drawn by them on such higher posts.

[3] It is not necessary to mention further facts in extenso as a brief reference to the relevant facts has been already given in the judgment dated 23.05.2017 rendered in LPA-681-2017 (**State of Punjab and another vs Sukhminder Singh and others**) and other connected cases, in which Review application bearing RA-LP-35-2017 has also been disposed of vide order dated 31.08.2018. Suffice to mention that several posts of Principal/ Headmaster/Headmistresses meant to be filled up by promotion from amongst Lecturer/ Master/Mistresses are lying vacant and the promotion quota has not been exhausted apparently for the reasons like pendency of seniority dispute. Since regular promotion could not be made, most of the senior most persons were asked to officiate on the promotional posts. They

have unfortunately retired from service without getting formal tag of regular promotion. It is in this backdrop that the learned Single Judge vide order under appeal has held them entitled to pension and other retiral benefits as per the last pay drawn by them on officiating posts.

[4] We have heard learned counsel for the parties at a considerable length and are of the view that the appellants cannot take undue advantage of their own inaction or wrongs. Seniority is a condition of service. It has to be determined at the earliest in accordance with the Rules governing conditions of service. If any delay occurs because of multiple Court proceedings, the authorities ought to have evolved some mechanism to grant regular promotions to the senior most Lecturer/ Master/ Mistresses, for promotion is also a legitimate expectation in service career. The controversy nevertheless does not require further deliberations, for necessary directions to consider and promote the Lecturer/ Master/ Mistresses on higher posts as per their seniority and other eligibility conditions have already been issued by this Court in the above-cited order dated 23.05.2017. Let those directions be complied with within the time-frame given in the cited order. The respondents in the lead case or the writ petitioners in the connected petitions shall also be considered for regular promotion as per their seniority and eligibility conditions from the due date and in accordance with the Rules, which were in vogue at the time of occurrence of vacancies. While the promotions shall be granted retrospectively but on notional basis only and they shall be entitled to fixation of their pension and other retiral benefits as per the pay deemed to have been drawn by them on the higher promotional posts. They shall also be entitled to arrears of pension and other retiral

benefits alongwith interest @7% per annum. The needful shall be done within a period of six months. However, if the respondents in the lead case and the writ petitioners in the connected cases have not been granted emoluments for the period they officiated/worked on the higher posts, let such claim be also considered within a period of four months.

[5] Disposed of.

[6] As the main case has since been disposed of, all the pending applications be also treated as disposed of.

**(SURYA KANT)
JUDGE**

September 25, 2018
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**(SUDIP AHLUWALIA)
JUDGE**

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