

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

LPA No. 945 of 2022 (O & M)

Date of Decision: 01.12.2022

Jaspal Singh

.....Appellant(s)

Versus

State of Punjab and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. D.S. Nigha, Advocate,
for the applicant-appellants.

G.S.SANDHAWALIA, J. (Oral)

CM-2259-LPA-2022

Application for condonation of delay of 196 days in filing the appeal is allowed in view of averments made in the application supported by affidavit of appellant.

Delay of 196 days in filing the appeal is condoned.

C.M. stands disposed of.

LPA-945-2022 (O & M)

The present letters patent appeal is directed against the order dated 11.02.2020 passed by the learned Single Judge in CWP No. 4813 of 2017, Jaspal Singh vs. State of Punjab and others.

The learned Single Judge denied the claim of the writ petitioner as such for counting the period of service from 23.01.1981 till 30.01.1986 which he had served with Municipal Council, Kurali as a Peon for the purposes of pensionary benefits. The writ petitioner had joined Municipal Council, Kurali on 23.01.1981 and later on adjusted at Municipal Council, Morinda on 19.03.1986 and was promoted as Clerk on 23.08.1988 and

hereafter retired on 30.06.2008. During this period of service or prior to

his retirement, he never agitated for the grant of the said benefit of service. The writ petition was filed 9 years after his retirement, in the year 2017. The learned Single Judge has recorded the fact that no provision or any Rule regulating service conditions for grant of the benefit of service rendered with one Municipal Council to be treated as qualifying service by the another Municipal Council has been demonstrated and, therefore, declined to grant the benefit as such. It was also noticed that the posts of Peons, Clerks and Junior Assistants are non-provincial posts and the appointing authority is the respective Municipal Council under Section 39 of the Punjab Municipal Act, 1911 and there is no *inter se* transfer between the two.

A perusal of the Annexures would go on to show that the writ petitioner was initially appointed as Octroi Peon as per Resolution No.13 dated 21.01.1981 with Municipal Council, Kurali on a temporary basis. Vide resolution No. 20 dated 24.01.1986 being the junior most official, he was relieved alongwith the others. Thereafter, he was adjusted to Municipal Council, Morinda as a Peon on 19.03.1986 (Annexure P-2) and was given promotion as a Clerk on 23.08.1988 (Annexure P-3) and thereafter superannuated in the year 2008. The legal notice was served on 28.11.2016 (Annexure P-4) on the strength of CWP No. 14328 of 1998, Sukhdev Singh and others vs. State of Punjab and others, which was appended as Annexure P-5 and counsel for the appellant has mainly tried to refer to the same.

The said case pertains to the benefit rendered in a government aided privately managed school and, therefore, does not in any manner assist the appellant. A writ of mandamus was being prayed for in the writ petition

which was subject matter of consideration before the learned Single Judge for

which the statutory Rule or a policy had to be shown as to whether the earlier period of service could be counted for grant of benefit to the writ petitioner as such. In the absence of any such rule or policy, the learned Single Judge is well justified in declining the relief claimed.

In the above circumstances, we do not find any illegality or irregularity in the order dated 11.02.2020 passed by the learned Single Judge and the present letters patent appeal stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

01.12.2022
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No