

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

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LPA-399-2017(O&M)

Decided on : 31.08.2022

Jaspal Singh

.....Appellant(s)

Versus

State of Haryana & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE JAGMOHAN BANSAL**

Present: Mr. Naveen Daryal, Advocate, for the appellant.

Mr. Hitesh Pandit, Addl. AG, Haryana.

G.S. Sandhawalia, J. (Oral)

Challenge in the present Letters Patent Appeal, filed by the writ petitioner-appellant, is to the judgment dated 23.12.2016 passed in CWP-27018 of 2016 whereby the counting of service from the date of recommendation dated 23.10.1989 (Annexure P-1) for the purpose of pension was denied by the learned Single Judge on the ground that he had never been appointed on the said date and had only joined on 20.10.1995, since he had not rendered any service and the writ petition had been dismissed in limine, without calling for the reply.

Counsel for the writ petitioner-appellant now has relied upon the judgment passed in CWP-20736-2013 wherein also, he had approached this Court impugning the order dated 30.07.2013 whereby the seniority given to the writ petitioner-appellant on the post of Assistant Agriculture Engineer w.e.f. 23.10.1989 was withdrawn. The seniority of the writ petitioner-appellant was restored though there are also observation that service benefits from the date his name was recommended in terms of the judgment passed in CWP-8386-1988, is totally erroneous.

The said order was not before the learned Single Judge and

neither there was reply of the State as the writ petition had been dismissed in limine. The State has now filed its reply. In such circumstances, keeping in view the above facts, we are of the considered opinion that it would be appropriate if a comprehensive decision is taken on the issue after taking into consideration the other factum of the observation made by the learned Single Judge in the writ petition initiated by the writ petitioner-appellant himself. It was not a case where the matter could be decided without calling for the reply as it would be an issue which would require consideration once the seniority had been granted from the date of recommendation but denied for the purpose of pensionary benefits. These are matters of pleadings and record which should have been placed on record before the learned Single Judge, firstly by the writ petitioner, and on account of not doing so the petition came to be dismissed in limine.

In such circumstances, we are of the considered opinion that the matter be remanded on this account. Accordingly, the present appeal is allowed, the order dated 23.12.2016 is set aside and CWP-27018 of 2016 is restored to its original number.

State shall complete the pleadings before the learned Single Judge. Needless to say that we have not observed upon the merits of the case in any manner and the learned Single Judge shall proceed to decide the case after the pleadings are complete.

(G.S. SANDHAWALIA)
JUDGE

August 31, 2022

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(JAGMOHAN BANSAL)
JUDGE

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