

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

**LPA-486-2023 (O&M)
Date of decision: 28.04.2023**

Tek Chand and others

.....Appellants.

vs.

State of Haryana and another

.....Respondents.

**CORAM: - HON'BLE MR JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE SANJIV BERRY**

Present: - Mr. P.L. Verma, Advocate, for the appellants.

M.S. RAMACHANDRA RAO, J.

CM-1325-LPA-2023 and CM-1326-LPA-2023

These applications are filed by the appellants seeking condonation of delay of 56 days in filing the appeal and further 50 days delay in re-filing the appeal.

Notice of the applications.

Ms. Shruti Jain Goyal, DAG, Haryana, accepts notice on behalf of the State-respondents and states that she has no objection if the said delay of 56 days in filing and 50 days in re-filing the appeal is condoned.

Having regard to the reasons assigned in the applications and having regard to the fact that State counsel for the respondents has no objection if these applications are allowed, these applications (CM-1325-LPA-2023 and CM-1326-LPA-2023) are allowed and the delay of 56 days

in filing and 50 days in re-filing the appeal is condoned.

CM-1327-LPA-2023

This is an application seeking impleadment of the legal representative of appellant No. 5-Vinod Kumar.

Having regard to the reasons assigned in the application, application is allowed and the legal representative of the deceased-Vinod Kumar/appellant No. 5 is permitted to file the appeal.

LPA-486-2023

Notice of motion.

Ms. Shruti Jain Goyal, DAG, Haryana, accepts notice on behalf of the State-respondents.

This Letters Patent Appeal is preferred against judgment dt.31.10.2022 of the learned Single Judge in CWP-456-2020 to the extent the learned Single Judge had not granted relief to the appellants.

He had rejected their claim for fixation of pensionary benefits on the ground that they had been given current duty charge of the Higher Post of Superintendent, though they were holding the substantive rank of Deputy Superintendent on the basis of last pay drawn by them while officiating in the said higher position.

The learned Single Judge, in the impugned judgment, has taken the view rightly that for fixation of pension, the substantive rank held by the employees had to be seen and not the officiating rank.

Admittedly, the substantive rank of the petitioners would

only be that of Deputy Superintendent and merely because they were given current duty charge of the higher post of Superintendent, they cannot claim to have been regularly promoted to the said position. So, notwithstanding the period they have discharged the duties of the office of Superintendent as current duty charge, they cannot claim any pensionary benefits on the said basis.

So, we do not find any merit in the appeal.

Accordingly, the appeal is dismissed.

(M.S. RAMACHANDRA RAO)
JUDGE

(SANJIV BERRY)
JUDGE

28.04.2023
kanika

whether speaking/non speaking	yes/no
whether reportable/non reportable	yes/no