

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

LPA-884-2023 (O&M)

Date of decision : 26.07.2023

State of Punjab and another

.....Appellants

Versus

Jagdish Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Arjun Sheoran, DAG, Punjab,
for the appellants.

Mr. Naresh Jain, Advocate,
for the caveators – respondents No.1 to 3.

RAVI SHANKER JHA, CHIEF JUSTICE (Oral)

CM-2263-LPA-2023

For the reasons set out in the application, duly supported by
an affidavit, delay of 82 days in filing the appeal is condoned.

Application is, accordingly, allowed.

LPA-884-2023 (O&M)

1. This appeal has been filed by the appellants – State of Punjab (respondents No.1 and 2 in the writ petition) being aggrieved by the order dated 15.02.2023 passed by the learned Single Bench in CWP-13605-2017.

2. The matter was heard on the question of admission and stay.

3. At this stage, learned counsel entering appearance on behalf of respondents No.1 to 3 (petitioners in the writ petition) on the strength

of caveat, submits that as the issue raised by the appellants – State does not require to go into merits of the case, the appeal may be heard and decided at this initial stage itself.

4. In view of the concern of the parties, the appeal is taken up and heard.

5. Respondents No.1 to 3 herein, who were original petitioners before the learned Single Bench, while working as Sectional Officers were aggrieved by the promotion of their Juniors to the post of Assistant Town Planner. They approached this Court by filing CWP-111-1999, which was disposed of by the learned Single Bench vide order dated 16.09.2013, against which the appellants – State filed LPA-1175-2016, which was also dismissed on 17.10.2016 on the ground of delay as well as on merits. The petitioners approached the Supreme Court by filing Petition for Special Leave to Appeal (C) No. 9608/2017, which stood disposed of by the Apex Court vide order dated 09.05.2017. The order is in the following terms :

“Delay condoned.

Learned counsel for the petitioners submits that as soon as the private respondents were promoted they had approached the High Court in a Writ Petition No. 111 of 1999 against the unjust denial of promotion to the admitted seniors. The petitioners herein are admittedly seniors to those who have been promoted to the post of Assistant Town Planner is also not in dispute, as can be seen from the stand taken by the State Government in the counter affidavit before the High Court.

In such circumstances, it is submitted that at least during the period the writ petitions

were pending before the High Court, the petitioners should have been granted the actual monetary benefits instead of limiting it to notional basis. This is a matter that petitioners are free to point out before the High Court.

Therefore, this special leave petition is disposed of making it clear that in case such a prayer is made in an appropriate manner within thirty days from today, the High Court may consider the same on merits.

Pending application(s), if any, shall stand disposed of.”

6. Pursuant to the order passed by the Supreme Court, the petitioners filed CWP-13605-2017, which has been allowed by the learned Single Bench, vide impugned order dated 15.02.2023, with a further direction that the petitioners would also be entitled to monetary benefits from the date of filing of CWP-111-1999 along with interest @ 6% per annum, which would be paid to the petitioners within 12 weeks from the date of receipt of certified copy of the order, failing which the petitioners would be entitled to interest @ 9% per annum thereafter, which would be recovered from the personal pocket of respondent No.1 in the petition.

7. Learned Deputy Advocate General, Punjab, appearing on behalf of the appellants – State, submits that the Supreme Court, while disposing of the SLP, has clearly observed that the issue as to whether the petitioners (respondents No.1 to 3 herein) should be granted the actual monetary benefits instead of limiting it to notional benefits is an issue, which the petitioners are free to take up before the High Court and in case, such an issue is taken up within thirty days, the High Court may

consider the same on merits. Learned State counsel submits that as there was no adjudication of the entitlement of the petitioners to the monetary benefits, more so, as the order dated 17.10.2016 passed by this Court in LPA-1175-2016 has been affirmed by the Supreme Court, therefore, in such circumstances, the learned Single Bench was required to examine the issue of entitlement of the petitioners to the monetary benefits on merits and only thereafter decide the matter. He further submits that instead of doing so, the learned Single Bench has treated the order passed by the Supreme Court in SLP No. 9608/2017 as an order directing payment of monetary benefits to the petitioners along with interest, without any application of mind to the merits of the prayer made by the petitioners. It is submitted that in such circumstances, the impugned order deserves to be set aside, more so, as the penal interest at the higher rate has been directed to be recovered from the personal pocket of respondent No.1, which is the State of Punjab and not the Principal Secretary, Department of Local Government.

8. Learned counsel for caveators - respondents No.1 to 3 (petitioners in the writ petition), on the contrary, submits that the matter has travelled upto the Supreme Court. He has taken us through the order dated 09.05.2017, passed by the Supreme Court, specifically paragraph 2 of the order, and submits that the issue of grant of actual monetary benefits has actually been considered and allowed by the Apex Court, and in such circumstances, no fault can be found with the impugned order passed by the learned Single Bench directing the appellants – State to pay monetary benefits to the petitioners – respondents along with interest from the date it became due. He submits that in view of the order

passed by the Supreme Court, the learned Single Bench was not required to delve into this issue and in such circumstances, the appeal deserves to be dismissed.

9. We have heard learned counsel for the parties and perused the order dated 09.05.2017 passed by the Supreme Court.

10. A bare reading of the second paragraph of the order dated 09.05.2017 passed by the Supreme Court makes it clear that the issue recorded therein is, in fact, submission by learned counsel appearing on behalf of the petitioners and is not a finding recorded by the Apex Court. On the contrary, a perusal of the last paragraph of the aforesaid order makes it clear that the Supreme Court has disposed of the matter observing that in case the issue regarding payment of actual monetary benefits is raised by the petitioners within thirty days, the High Court may consider the same on merits. In such circumstances, we are of the considered opinion that the learned Single Bench was required to adjudicate the matter on merits, decide the entitlement or otherwise of the petitioners and only, thereafter, pass the orders regarding recovery etc. However, from a perusal of the impugned order, it is evident that the learned Single Bench has simply allowed the petition, in view of the order passed by the Supreme Court, without delving into the merits of the prayer made by the petitioners, and while doing so, has also ordered payment of interest and recovery of enhanced interest from the personal pocket of respondent No.1.

11. Having examined all the facts and facets of the case, we are of the considered opinion that the impugned order deserves to be set aside and the matter is to be remanded back to the learned Single Bench

for adjudication of the issue raised by the petitioners in the petition and claim made therein on merits in terms of the observations made by the Supreme Court in its order dated 09.05.2017 passed in SLP No.9608/2017.

12. In view of the above, the impugned order dated 15.02.2023 passed by the learned Single Bench in CWP-13605-2017 is set aside and the matter is remitted back to the learned Single Bench for adjudication of the issue regarding claim of the petitioners for actual monetary benefits on merits.

13. Appeal is, accordingly, allowed.

14. All the pending applications stand disposed of.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

July 26, 2023
ndj

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No