

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

LPA-1188-2023 (O&M)
Date of decision : 28.08.2023

State of Punjab and othersAppellants

Versus

Harnoorpreet SinghRespondent

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. Kumar Vishav Aggarwal, Advocate,
for the caveator – respondent.

RAVI SHANKER JHA, CHIEF JUSTICE (Oral)

CM-3041-LPA-2023

For the reasons mentioned in the application, duly supported
by an affidavit, delay of 68 days in filing the appeal is condoned.

Application is, accordingly, allowed.

LPA-1188-2023 (O&M)

This appeal has been filed by the appellants – State being
aggrieved by an order dated 17.05.2023 passed by the learned Single
Bench in CWP-10299-2023.

Though several legal issues, including the non-compliance
of the instructions, issued by the Department of Finance (Finance
Pension Policy & Coordination Branch), Government of Punjab, vide
letter dated 19.02.2016, relating to “Technical Resignation”, have been
raised by learned Deputy Advocate General, Punjab, however, it is not
disputed by learned counsel for the respondent, appearing on the strength
of caveat, that the writ petition was decided by the learned Single Bench

without issuing any notice to the State or obtaining a reply/response from the State. It is also not disputed that in view of this factual position, the legal issue and the stand regarding non-compliance of the aforesaid instructions dated 19.02.2016 could not be contested by the State and, therefore, it could not be considered by the learned Single Bench while passing the impugned order. It is also not disputed that decision on this issue is germane to the resolution of dispute between the parties.

In such circumstances, as the impugned order by the learned Single Bench has been passed without issuing notice or obtaining reply from the State, the same is set aside and the matter is remitted back to the learned Single Bench for taking it afresh, giving an opportunity to the State to file reply, and thereafter, deciding it in accordance with law and on merits. It is made clear that the learned Single Judge would be at liberty to take and decide the matter after considering all the legal and factual issues, including the rival submissions of the parties, relating to the instructions dated 19.02.2016.

Appeal is, accordingly, disposed of.

All the pending applications also stand disposed of.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(VIKAS BAHL)
JUDGE

August 28, 2023
ndj

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