

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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LPA -1629-2023 (O&M)
Date of Decision: 06.11.2023

State of Haryana and another

... Appellants

Versus

Pardeep Narayan

... Respondent

**CORAM: HON'BLE MS.JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE AMAN CHAUDHARY**

Present: Mr. Deepak Balyan, Additional Advocate General, Haryana.

AMAN CHAUDHARY, J.

CM-4152-LPA-2023

For the reasons stated in the application, delay of 335 days is hereby
condoned, subject to all just exceptions.

Main appeal

1. Challenge in the present intra-Court appeal, filed under Clause X of the Letters Patent is to the judgment dated 31.10.2022, whereby the civil writ petition preferred by the respondent came to be allowed.
2. Learned counsel appearing on behalf of the appellant State would submit that the respondent has been wrongly held entitled to a salary of the higher post even when there was a clear stipulation in the order directing him to discharge duties thereof, that he shall not be entitled to any financial benefit on account of the same.
3. Heard.
4. As is evident that the respondent was assigned duties of a higher post by the Department against a vacant post on its own volition, he having no role to play whatsoever in the same, which was for a period of three years on the post of

District Commander, till he retired on attaining the age of superannuation, albeit with a caveat that he shall not be entitled to the pay-scale or seniority of the said post.

5. The respondent, who is said to have received commendation certificates in recognition of maintenance of law and order displaying address acuteness, industry and devotion to duty and his active cooperation with Home Guards, Haryana and given cash reward on a number of occasion, Annexures A-1 (colly) appended with the writ petition, vacancy for the higher post being available and he being the senior most in the feeder cadre but ironically instead of considering him for grant of regular promotion, he was made to perform duties of the higher post without any financial benefit thereof. It is a clear case of the Department being in the wrong.

6. It is trite that there is no estoppel against law.

7. An endeavour to canvass non-entitlement to the pay of the higher post on account of the condition, is required to be deprecated, it being exploitative and incorporated by the State, which is in a dominant position. Needless to say that the aforesaid decision was unilateral and therefore not enforceable.

8. Gainful it would be to refer to the dictum in **State of Punjab vs. B.K. Dhir**, (2017) 9 SCC 337, which is intrinsically applicable to the present facts inasmuch as, the respondent therein was not paid the salary while having made to officiate on a higher post, wherein Hon'ble the Supreme Court while affirming the order of the Division Bench of the High Court observed that it was incumbent upon the Department to pay him the salary for the period he had worked on the said post, despite the condition imposed in the order that he would do so without any extra emoluments.

9. As a fall out and consequence of the afore-discussion, we find that the respondent was rightly allowed the benefit of salary for the period he performed duties on the higher post, regardless of any condition incorporated as an impediment to his cause.

10. There being, thus, no ground to interfere in the judgment of the learned Single Judge, the present appeal is hereby dismissed.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

06.11.2023
Ankur

Whether speaking / reasoned: YES / NO
Whether Reportable: YES / NO