

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(107) LPA-610-2024 (O&M)
Decided on : 23.04.2024

Rachpal Singh & others
.....Appellant(s)

Versus

Chandigarh Administration through its Administrator, U.T., Chandigarh &
others
.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr.Shivam Bansal, Advocate for the appellant (s).
Ms.Madhu Dayal, Advocate, for respondent-CITCO.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-1503-LPA-2024

1. Application for condonation of delay of 46 days in filing the present appeal, is allowed, in view of the averments made in the application, duly supported by affidavit of appellant No.2, same is allowed. Delay of 46 days in filing the appeal is hereby condoned.

2. CM stands disposed of.

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3. Consideration in the present appeal is to the judgment dated 26.02.2019 passed by the Learned Single Judge in CWP-21833-2016 titled *Sh. Rachpal Singh & others Vs. Chandigarh Administration & others*, whereby the Learned Single Judge declined the benefit of extension in service after the age of 58 years.

4. The principle which was kept in mind by the Learned Single Judge was that the employer had decided not to give extension in service to its employees beyond the age of 58 years and relieved the employees on 10.10.2016 after taking a decision on 06.07.2016 (Annexure P-28).

Learned Single Judge kept the basic principle in mind that the financial burden of CITCO would come to Rs.48 crores per annum for keeping the employees on board since the salary burden of the 36 relieved employees was Rs.18,62,861/- per month approximately. Resultantly, while noticing that in various judgments it had been held that grant of extension in service after the date of retirement is not a right but only a concession and could be withdrawn at any time, the writ petition was dismissed.

5. The appellants chose to file appeal against the same bearing LPA-1114-2019 which was dismissed as withdrawn on 28.05.2019 (Annexure A-4) with the following liberty:

“At the outset, learned senior counsel appearing for the appellants made a request to permit withdrawal of the appeal with liberty to file a review application since the issue of payment of wages for the period, though was pressed, but somehow has escaped attention of the learned Single Judge.

Prayer made is allowed.

Appeal is permitted to be withdrawn with the liberty prayed for.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

28.05.2019”

6. It is thus apparent that on merits the appellants had already given up their claim regarding this issue. The review petition was thereafter dismissed bearing RA-CW-297-2019 on 01.12.2023 wherein the Learned Single Judge held that no case is made out to give salary on account of the fact that there was an interim order on 21.10.2016 in favour of the writ petitioners and they had only been reinstated on 25.09.2017. It was noticed that since the writ petition had been dismissed and no case was made out to give the applicants the salary for the said period.

7. Counsel for the appellants has thus submitted that for the period the appellants were not allowed to join, they should be paid the salary and the Learned Single Judge has declined the said benefit wrongly.

8. It is, however, not disputed that after the reinstatement on 25.09.2017, the employees continued till they attained the age of

superannuation and thus, had been only paid for the period they actually worked. The Learned Single Judge was thus right in holding that for the period they did not work and having been reinstated due to the various interim orders being passed on having been earlier relieved, the benefit of payment of salary had rightly not been granted on the principle of ‘No Work- No Pay’. Accordingly, no fault can be found in the view taken by the Learned Single Judge in the facts and circumstances.

9. As noticed CITCO is under immense financial strain and therefore, the view which has been taken by the Learned Single Judge is a plausible view and is not liable to be interfered with as there is no illegality or irregularity and the same is based on settled principle that the employer could not be forced to pay and shell out for the period of over a year without having the benefit of the work force.

10. Resultantly, we do not find any ground to interfere in the well reasoned order of the Learned Single Judge since the main appeal itself had not been pressed on merits on an earlier occasion. Accordingly, in view of the above discussion, the present appeal is hereby dismissed. All pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

23.04.2024
Sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :		No