

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

(107)

**LPA-714-2024 (O&M)
Decided on : 15.03.2024**

Harjinder Singh

.....Appellant(s)

Versus

State of Punjab and others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MRS.JUSTICE MANISHA BATRA**

Present: Mr. Shashi Bhushan Nagpal, Advocate for the appellant (s).

Mr. Saurav Khurana, Addl. AG, Punjab.

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

CM-1756-LPA-2024

Application for condonation of delay of 81 days in filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit of the appellant. Delay of 81 days in filing the appeal is condoned.

CM stands disposed of.

LPA-714-2024 (O&M)

Consideration in the present letters patent appeal is sought of the order of the learned Single Judge dated 07.11.2023 passed in the CWP-26586-2015 filed by the appellant.

2. Vide the said order the Learned Single Judge dismissed the writ petition by imposing costs of Rs.10,000/- and did not interfere in the order dated 03.07.2014 (Annexure P-8) wherein the appellant was reverted to the post of Peon in the pay-scale of Rs.5900-10680+1650 and the order dated 25.08.2014 (Annexure P-9) various periods when the appellant remained absent were treated as 'leave of kind due' by the authorities concerned while

ordering him to retire voluntarily as a Peon.

3. The Learned Single Judge noticed that the appellant had been promoted from a Class-IV post to Class-III post without qualifying the Punjabi Typing Test and the issue had been taken to the Apex Court, wherein the liberty had been given to clear the test within one year from the date of passing of the judgment on 26.08.2011 (Annexure P-5). It was noticed that the appellant had not appeared in the typing test, in spite of the fact that he was asked to appear and reversion had, accordingly, been done. The Learned Single Judge was of the opinion that wrongful averment had been put up before the Court and he himself was not appearing for several years and, thus, was absent from duty on several dates, which have been reproduced in the order and, therefore, he came to the conclusion that no relief can be granted to such a person while imposing costs.

4. The said argument is sought to be repeated to the extent that the department did not hold the test. We have perused the paper-book, which would go on to show that in **Civil Appeal No.4134 of 2006 ‘State of Punjab and another Vs. Harjinder Singh’** decided on 26.08.2011 (Annexure P-5) in the case of the appellant himself the Apex Court had given indulgence of one year for clearing the typing test in Punjabi from the said date. Apparently, the appellant sought to seek premature retirement on the higher post by moving application dated 26.03.2014 (Annexure P-6) as his retirement was due on 31.12.2015. He was put to notice on 08.05.2014 (Annexure P-7) regarding this aspect and as per reply of the State also he had been asked to clear his test. Thereafter, vide his representation dated 21.05.2014, the appellant had requested for one week time which was given. Thereafter, he had given a representation that his eyes had become weak and he may be retired and he did

not appear in the type test on 30.05.2014, due to which he was reverted to the post of peon and voluntarily retired on the said post.

5. Thus, the facts would go on to show that the appellant was seeking an escape route to retire on the higher post to earn enhanced pensionary benefits. Resultantly, keeping in view the judgment of the Apex Court we are bound not to take a contrary view and do not see any reason to interfere in the order of the Learned Single Judge, which is not suffering from any infirmity or illegality. Resultantly, there is no merit in the present letters patent appeal and the same is dismissed in limine.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

15.03.2024
Naveen

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned :	√Yes	No
Whether Reportable :	Yes	√No