

2024:PHHC:073036-DB



Neutral Citation No.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(112+115)	LPA-1243-2024 (O&M)
Commissioner, Municipal Corporation, Hoshiarpur	
	Appellant(s)
Versus	
Gurparvinder Singh & others	Respondent(s)
(2)	LPA-1277-2024 (O&M)
Commissioner, Municipal Corporation, Hoshiarpur	
	Appellant(s)
Versus	
Surjit Singh & others	Respondent(s)

Decided on : 22.05.2024

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

Present: Mr.Kamaldeep Singh Sidhu, Advocate, for the appellant(s).
Mr.Saurav Khurana, Addl.AG, Punjab.

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

CM-2985-LPA-2024 in LPA-1243-2024
CM-3063-LPA-2024 in LPA-1277-2024

- Applications for condoning the delay of 44-46 days in filing the present appeals is hereby condoned, in view of the averments made in the applications, duly supported by affidavit of the official. Delay of 44-46 days in filing the appeals is hereby condoned.
- CMs stand disposed of.

3. Exemption applications are allowed, as prayed for.

4. CMs stand disposed of.

LPA-1243 & 1277-2024 (O&M)

5. Consideration in the present appeals is to the judgment dated 30.01.2024 passed by the Learned Single Judge whereby he has chosen to decide 14 writ petitions, the lead case being CWP-16147-2023 titled *Surjit Singh Vs. State of Punjab & others* out of which, LPA-1277-2024 has arisen.

In principal, the relief granted by the Learned Single Judge was that the order rejecting the claim for the release of benefit of Old Pension Scheme was quashed and directions were issued to grant pensionary benefits under the said scheme and necessary calculation of the amount of pensionary benefits was to be released within a period of 4 months.

6. The reason which weighed with the Learned Single Judge was that keeping in view the law which has been settled by the Division Bench in **Harbans Lal Vs. State of Punjab & others, 2012 (3) SCT 362** wherein it was held that once the employee's service had been regularized after 01.01.2004 but he was in service prior to that even on daily wage or work-charge basis, he would be entitled for the pension under the Old Pension Scheme which was introduced on 01.01.2004. In the present case, it is to be noticed that the Learned Single Judge had relied upon a finding that the appointment was made on 01.04.1993 with the erstwhile Municipal Council, Hoshiarpur now the appellant-Corporation which resulted in termination of service on 31.03.1994. The same was successfully challenged before the Labour Court vide award dated 22.02.2001 and directions were issued for reinstatement with continuity of service and full back-wages.

7. The resultant effect was that on joining duties on 18.09.2002 and the employee got the benefit of regularization vide order dated 15.03.2012 which was after 01.01.2004 and therefore, he agitated for his grievance under the Old Pension Scheme. In such circumstances, the benefit was granted by the Learned Single Judge relying upon the judgment passed by the Co-ordinate Bench in LPA-666-2022 titled *Municipal Council, Qadian Vs. Mushtaq Masih & others*, decided on 21.12.2023. In similar circumstances, we have also dismissed LPA-475-2023 titled *The Commissioner, Municipal Corporation, Pathankot Vs. Sunil Kumar & others*, on 29.02.2024 by noticing that the judgment passed in Harbans Lal (supra) was upheld by the Apex Court in Special Leave Petition No.23578 of 2012 on 04.11.2015.

8. In such circumstances, we do not find any ground to interfere with the judgment passed by the Learned Single Judge. Accordingly, the present appeals, filed by the appellant-Corporation, stand dismissed. All pending application(s) also stand dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

22.05.2024
Sailesh

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No