

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:068825-DB



(102) LPA-1385-2023 (O&M)

PEPSU ROAD TRANSPORT CORPORATION (PRTC)
.....Appellant(s)

Versus

VAISAKHA SINGH AND ANOTHER
(2)Respondent(s)

LPA-1308-2023 (O&M)
PEPSU ROAD TRANSPORT CORPORATION (PRTC)
.....Appellant(s)

Versus

AMARJIT SINGH (RETD. SUB INSPECTOR)Respondent(s)

Decided on :16.05.2024

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

Present:- Mr. Harsh Aggarwal, Advocate for the appellant.

Mr. Vikas Chatrath, Advocate
Mr. Dharamvir Singh, Advocate,
Ms. Preetleen Kaur, Advocate and
Mr. Rajbir Singh, Advocate for the respondents.

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

CM-3531-LPA-2023 in LPA-1385-2023
CM-3340-LPA-2023 in LPA-1308-2023

Applications for condonation of delay of 19 and 21 days in re-
filing the appeals, are allowed, in view of the averments made in the

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applications, duly supported by affidavit. Delay of 19 and 21 days in re-filing the appeals is condoned.

CMs stand disposed of.

CM-3532-LPA-2023 in LPA-1385-2023
CM-3341-LPA-2023 in LPA-1308-2023

Applications for condonation of delay of 13 and 44 days in filing the appeals, are allowed, in view of the averments made in the applications, duly supported by affidavit. Delay of 13 and 44 days in filing the appeals is condoned.

CMs stand disposed of.

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Consideration in the present letters patent appeal is sought of the judgment of the learned Single Judge dated 20.04.2023 whereby two writ petitions were decided, lead case of which was **CWP No.27413 of 2015, Vaisakha Singh Vs. PRTC and another.**

2. The learned Single Judge quashed the order dated 12.05.2015 (Annexure P-1), whereby the writ petitioners were superannuated on completion of the age of 58 years i.e. on 31.05.2015 and 31.03.2015 from PRTC, the appellant. The case as such of the writ petitioners-employees was that they were entitled for the benefit of additional 2 years of service on account of suffering from disability in view of provisions under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and the judgment of the Apex Court in **Civil Appeal No.8855 of 2013 'State of Punjab and others Vs. Bhupinder Singh'** decided

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on 16.09.2014 (Annexure P-3). The learned Single Judge came to the conclusion that the writ petitioners were entitled for the benefit, since the appellant-Corporation itself has extended the relief vide Circular dated 19.11.2014 to the employees who had retired after 19.11.2014 but before 22.01.2016, when the circular is stated to have adopted. Resultantly, while falling back on Article 14 of the Constitution of India and placing reliance upon several judgments that the benefits once granted to the similarly situated persons, the Corporation could not discriminate as such. Reliance was also placed upon the judgment passed by a Single Bench of this Court in **Swaran Singh Jawanda Vs. State of Punjab and others, 2017 (3) SCT 539**, which was upheld in LPA-2045-2017 on 02.11.2017.

3. Mr. Aggarwal has sought to distinguish the said judgment on the ground that the SLP was allowed in **Punjab Urban Planning and Development Authority through its Additional Chief Administrator Vs. Swaran Singh Jawanda & others, 2024 (2) RCR (Civil) 890** and, therefore, reliance was placed on the same is without any basis.

4. We have perused the decision of the Apex Court in the above said judgment and find that the case can be distinguished to the extent that the Apex Court came to the conclusion that the employer in that case had its own rules and regulations. Since the PUDA had not adopted the Circular dated 19.11.2014, the appeal was allowed by setting aside the order of the learned Single Judge and the Division Bench. It was found that there were **Punjab Urban Planning and Development Authority (Employees Service)**



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Regulation, 1999 and Regulation 21 as such provided the age of retirement which was 58 years. In such circumstances, the judgment has been rendered.

5. In the present case, it is not disputed that the instructions of the Government dated 19.11.2014 were duly adopted vide resolution dated 22.01.2016 (Annexure R-1). A perusal of the same would go on to show that it is not specifically mentioned that whether the adoption would be retrospective or prospective, rather it is only mentioned that the instructions are to be followed. Relevant portion of the resolution dated 22.01.2016 reads as under:-

“As per the advice received from the Administrative Department vide Memo No. E208/3T2/2015/644644/1 dated 10.12.2015 in pursuance to the letter no. 12/72/09-V.V. (PA & D) Bh.A/5923-69 dated 06.11.2015 of the Department of Disinvestment, it has been recommended to implement the instructions of the Government of Punjab in PRTC. Therefore, as per the instructions issued by the Government of Punjab vide letter no. 17/20/2010 2PP2/132 dated 19.11.2014, the retirement age of the following categories of disabled officers/employees working in PRTC, on submission of medical certificate by the competent medical officer, is enhanced from 58 years to 60 years:-

- (i) Blindness or Low vision;
- (ii) Hearing impairment; and
- (iii) Locomotor disability or cerebral palsy”

6. Once the appellant-Corporation itself has adopted the instructions, we do not find any valid reason why the advantage should not flow to the writ petitioners, who are stated to have retired after the circular of the Government on 31.03.2015 and 31.05.2015. It is only on account of delay in passing the resolution, the Corporation seeks to absolve itself of the liability



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to pay. Apparently, the learned Single Judge while firstly allowing **CWP-7233-2010 ‘Bhupinder Singh Vs. State of Punjab and others’** decided on 25.05.2011 (Annexure P-8). had directed modification of the Circulars whereby benefits of enhancement of age were to be given. The appeal filed by the State bearing No. **LPA-1719-2011** was dismissed on 25.09.2012 (Annexure P-9) and the same was upheld by the Apex Court in appeal vide order dated 16.09.2014 (Annexure P-3). Therefore, the law had already been laid down by the Apex Court regarding the benefit to be granted before the writ petitioners had retired and, therefore, they had claimed the said relief which had wrongly been not granted at the relevant point of time.

7. In such circumstances, we do not find any plausible reason to interfere in the orders of the learned Single Judge, which is well justified in the facts and circumstances. Resultantly, the present letters patent appeals are dismissed in *limine*. All pending civil miscellaneous application(s), if any, also stand disposed of.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

16.05.2024

Naveen

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