

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

(109)

LPA-963-2023 (O&M)

Decided on : 05.02.2024

Balwinder Singh

.....Appellant(s)

Versus

State of Punjab & others

.....Respondent(s)

**CORAM : HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present:- Mr.Chanderhas Yadav, Advocate for the appellant.

G.S. Sandhawalia, J. (Oral)

CM-2456-LPA-2023

1. Exemption application is allowed as prayed for.

CM-2459-LPA-2023

2. Application for condoning the delay of 37 days in filing the present appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the appellant. Delay of 37 days in filing the appeal is hereby condoned.

3. CM stands disposed of.

LPA-963-2023

4. The present appeal has been filed against the order of the Learned Single Judge dated 10.05.2023 in CWP-19549-2019 vide which the Learned Single Judge has declined to exercise the power of judicial review while noticing that the claim for exemption from type-test had been withdrawn on 31.01.2007 which had earlier been issued in the year 1996 to be applicable to the Clerks beyond the age of 50 years, therefore, the benefit of concession could not be applied now.

5. The writ petition was apparently filed after his retirement on 31.01.2019 challenging the order dated 26.02.2019 wherein the relief claimed

had been declined. The said order had been passed only on account of the fact that a direction had been issued by the Learned Single Judge on 17.01.2019 in CWP-30163-2018 wherein decision on the legal notice had been sought at the fag end of his career. As noticed, he retired on 31.01.2019. If one has to peruse the legal notice which was served dated 23.10.2018 it would go on to show that the petitioner had been appointed as a Clerk on compassionate basis on 05.05.1988. As per the notice, he could not clear the Punjabi type-test and the employees were asked to learn Computer in Punjabi between June, 2012 to August, 2012. During that period he apparently suffered internal injuries due to fall and could not pass the Punjabi test and thus had never earned his annual increments. It is thus apparent that during his service period from 1988 to 2019, no effort has been made by him to have the basic requirement for earning the annual increments on the post of Clerk.

6. Accordingly, in view of the above discussion, we are of the considered opinion that the order dated 10.05.2023 of the Learned Single Judge refusing to exercise his extraordinary writ jurisdiction does not suffer from any infirmity in the above facts and circumstances. Resultantly, the present appeal is dismissed in limine.

(G.S. SANDHAWALIA)

ACTING CHIEF JUSTICE

February 5th, 2024

Sailesh

(LAPITA BANERJI)

JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No