

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-696-2022 (O&M)

Date of decision:- 09.04.2024

The State of Punjab and another

...Appellant(s)

Versus

Malagar Singh

...Respondent(s)

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

Present: Ms. Anu Chatrath, Additional Advocate General, Punjab,
Mr. Saurav Khurana, Additional Advocate General, Punjab,
for the appellants – State of Punjab in LPAs-696, 766, 809, 981,
948, 1097, 1068, 922, 1075, 1133, 1154, 1176, 1202, 963, 956,
958-2022, LPAs-5, 33, 88, 91, 156, 154, 167, 282, 262, 326, 333,
372, 577, 692, 724, 883, 856, 878, 106, 111, 1155, 1341-2023 &
LPA-154-2024.
Mr. Tarun Kumar, Advocate,
Mr. Swapnil Bansal, Advocate,
for Mr. Keshav Pratap Singh, Advocate,
for the appellants in LPAs-1041 & 1034-2022.
Mr. Abhilaksh Gaiind, Advocate,
Mr. Rakesh Rai, Advocate,
Mr. Arun Sharma, Advocate,
for the appellants (through video conferencing),
in LPAs-1014, 1003, 1005, 1006 & 1008-2022.
Mr. Dhruv Walia, Advocate,
for the appellants in LPA-960-2022.
Mr. Shreesh Kakkar, Advocate,
for the appellants in LPA-950-2023.
Mr. Tushaar Madaan, Advocate,
for the appellants in LPA-1344-2023.
Ms. Harshmir Kaur Swaitch, Advocate,
Mr. N.S. Swaitch, Advocate,
for the respondents in LPAs-766 & 1075-2022,
LPAs-33, 88, 333 & 111-2023.
Ms. Gitanjali Chhabra, Advocate,
for the respondents in LPAs-696, 809, 1097, 1068, 1133, 1154,
963, 958-2022, LPAs-5, 156, 692, 883 & 856-2023,
for respondent No. 12 in LPA-922-2022,
for respondent No. 1 in LPA-282-2023.
Mr. N.S. Dandiwal, Advocate,
for the respondent in LPA-1014-2022.
Mr. Vineet Sachdeva, Advocate,
for Mr. Himanshu Gupta, Advocate,
for the respondent in LPA-1005-2022.

Mr. Vikas Chatrath, Advocate,
for respondent No. 38 in LPA-1006-2022.
Mr. J.S. Jaidka, Advocate,
for the respondents in LPA-1008-2022.
Mr. Sunny Singla, Advocate,
Ms. Riti Singla, Advocate,
Mr. Jaskirat Singh, Advocate,
for the respondents in LPA-948-2022.
Mr. Subhash Kumar, Advocate,
for the respondents in LPA-1034-2022.
Mr. Lakshay Goel, Advocate,
Mr. Mohit Singh, Advocate,
for Mr. H.P.S. Ghuman, Advocate,
for respondents No. 1 to 4, 8, 9, 16, 17, 21, 22 & 25 to 27
in LPA-922-2022.
Ms. Rythem Bajaj, Advocate,
for respondents No. 10 & 14 in LPA-922-2022.
Mr. Arun Kumar Vasudeva, Advocate,
for Mr. Amrik Singh, Advocate,
for the respondents in LPA-1176-2022 & LPA-91-2023.
Mr. Onkar Rai, Advocate,
for the respondent in LPA-1202-2022.
Mr. Y.P. Singla, Advocate,
for the respondent in LPA-167-2023.
Mr. Nitesh Singla, Advocate,
for respondents No. 1, 4, 6, 8 & 9 in LPA-326-2023.
Mr. Abhishek Khullar, Advocate,
for the respondent in LPA-372-2023.
Mr. Jasmeet Singh, Advocate,
for the respondent in LPA-577-2023.
Mr. Kanwaljeet Singh, Advocate,
Mr. Satvir Singh, Advocate,
for the respondents in LPAs-950 & 1344-2023.

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G.S. SANDHAWALIA, A.C.J. (ORAL)

1. The present set of appeals (details whereof have been given at the foot of judgement) are directed against the order dated 16.03.2022 passed by the learned Single Judge, whereby 23 writ petitions were allowed.

2. Resultantly, the relief claimed as such for grant of one notional increment which had not been extended to the respondents-writ petitioners as they had retired from service a day earlier was granted to them while keeping in mind the provisions of Rule 4.7 of the Punjab Civil Service Rules, Volume 1 Part 1. The reliance upon Rule 4.9-A of the Rules *ibid* by the State

was as such distinguished and the benefit as such was granted with a direction that the last drawn pay at the time of retirement and pensionary benefits be re-calculated. The respondents-writ petitioners were not held entitled for any arrears prior to the date of filing of the writ petitions as agreed by them on the basis of consent and re-fixation was to be done within a period of two months from the receipt of copy of the order with the release of actual arrears within a period of one month.

3. The present appeals are also barred by around 43 to 621 days' delay in filing and 04 to 71 days' delay in re-filing. It has been brought to our notice that while dealing with the said bunch, CWP-22679-2020 ***titled Hari Sharma and others Vs Principal Secretary and others*** was also decided. LPA-139-2024 filed by the State already stands dismissed by another Coordinate Bench on 16.01.2024 while placing reliance upon the judgement of the Apex Court in ***The Director (Admn. and HR) KPTCL & others Vs C.P. Mundinamani and others***, 2023 AIR (SC) 1956. The relevant portion reads as under:-

“(3) The afore issue stands settled in the employees’ favour by the Supreme Court in its recent decision dated 11.04.2023 passed in Civil Appeal No.2471 of 2023 (SLP (C) No.6185 of 2020) – The Director (Admn. and HR) KPTCL & others vs. C.P. Mundinamani and others. The relevant portions of the said judgment are reproduced below for reference : -

“6.5 Now, so far as the submission on behalf of the appellants that as the increment has accrued on the next day on which it is earned and therefore, even in a case where an employee has earned the increment one day prior to his retirement but he is not in service the day on which the increment is accrued is concerned, while considering the aforesaid issue, the object and purpose of grant of annual increment is required to be considered. A government servant is granted the annual increment on the basis of his good conduct while rendering one year service. Increments are given annually to officers with good conduct unless such increments are withheld as a measure of punishment or linked with efficiency.

Therefore, the increment is earned for rendering service with good conduct in a year/specified period. Therefore, the moment a government servant has rendered service for a specified period with good conduct, in a time scale, he is entitled to the annual increment and it can be said that he has earned the annual increment for rendering the specified period of service with good conduct. Therefore, as such, he is entitled to the benefit of the annual increment on the eventuality of having served for a specified period (one year) with good conduct efficiently. Merely because, the government servant has retired on the very next day, how can he be denied the annual increment which he has earned and/or is entitled to for rendering the service with good conduct and efficiently in the preceding one year.

xxxx xxxx xxxx

7. In view of the above and for the reasons stated above, the Division Bench of the High Court has rightly directed the appellants to grant one annual increment which the original writ petitioners earned on the last day of their service for rendering their services preceding one year from the date of retirement with good behaviour and efficiently. We are in complete agreement with the view taken by the Division Bench of the High Court. Under the circumstances, the present appeal deserves to be dismissed and is accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.”

(4) Thus, the Supreme Court in C.P. Mundingamani’s case (supra) has decided in no uncertain terms that an employee who has earned his annual increment is entitled to the same despite the fact that he has retired a day prior to its accrual.

(5) In view of the law laid down by the Supreme Court in C.P. Mundingamani’s case (supra), we are of the opinion that the learned Single Judge has not committed any error in fact or in law to allow the respondents’ petition.

(6) In the light of the above, the appeal is dismissed both on the ground of delay as also on merits.

(7) No costs.”

4. Learned State counsel as such could not dispute the factual aspect that one of the appeals out of the same judgement stands dismissed.

Resultantly, keeping in view the above, we do not find any plausible reason to take a different view.

5. Resultantly, the applications for condonation of 43 to 621 days’ delay in filing and 04 to 71 days’ delay in re-filing are allowed and the appeals are dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

09.04.2024
Amodh Sharma

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No

Sr. No.	Case No.	Parties Details
1.	LPA-766-2022	State of Punjab and others Vs Raj Kumar Arora
2.	LPA-809-2022	State of Punjab and others Vs Harminder Singh and another
3.	LPA-1041-2022	Punjab State Power Corporation Limited and others Vs Ramesh Kumar Sharma
4.	LPA-1014-2022	Punjab State Power Corporation Limited and others Vs Jaswant Singh
5.	LPA-981-2022	State of Punjab and others Vs Dasrath Singh
6.	LPA-1003-2022	Punjab State Power Corporation Limited and others Vs Mulkh Raj (since deceased) through his LR Bharat Bhushan and others
7.	LPA-1005-2022	Punjab State Power Corporation Limited and others Vs Ramesh Kumar
8.	LPA-1006-2022	Punjab State Power Corporation Limited and others Vs Paramjit Singh and others
9.	LPA-1008-2022	The Punjab State Power Corporation Limited Vs Raj Kumar Chauhan and others
10.	LPA-948-2022	State of Punjab and others Vs Karan Vir Singh and others
11.	LPA-1034-2022	The Punjab State Power Corporation Limited and others Vs Balwinder Singh and others
12.	LPA-1097-2022	State of Punjab and another Vs Alvin Masih
13.	LPA-1068-2022	The State of Punjab and another Vs Naresh Kumar Dhir and others
14.	LPA-922-2022	The State of Punjab and another Vs Harmit Singh and others
15.	LPA-1075-2022	State of Punjab and others Vs Surinder Kaur Jawanda
16.	LPA-1133-2022	State of Punjab and others Vs Darshan Singh
17.	LPA-1154-2022	State of Punjab and another Vs Surinder Singh Virk
18.	LPA-1176-2022	State of Punjab and others Vs Parminder Singh Mangat
19.	LPA-1202-2022	State of Punjab and others Vs Harjinder Singh
20.	LPA-5-2023	The State of Punjab and another Vs Harmesh Kumar
21.	LPA-33-2023	State of Punjab and others Vs Major Singh
22.	LPA-88-2023	State of Punjab and others Vs Inderjit Singh
23.	LPA-91-2023	State of Punjab and others Vs Parvesh Kumar

24.	LPA-156-2023	The State of Punjab and others Vs Satpal Kalsi
25.	LPA-154-2023	State of Punjab and others Vs Jaspinder Pal Singh Sandhu
26.	LPA-963-2022	The State of Punjab and others Vs Baljeet Singh and others
27.	LPA-167-2023	State of Punjab and others Vs Madan Lal Singla
28.	LPA-960-2022	Punjab State Power Corporation Limited and others Vs Gurtej Singh Sandhu
29.	LPA-282-2023	The State of Punjab and another Vs Balwant Rai and another
30.	LPA-262-2023	State of Punjab and another Vs Davinder Singh and others
31.	LPA-326-2023	State of Punjab and others Vs Vaishno Dass and others
32.	LPA-333-2023	State of Punjab and others Vs Ashok Kumar Handa and others
33.	LPA-372-2023	The State of Punjab and others Vs Manohar Lal
34.	LPA-577-2023	State of Punjab and others Vs Gurmeet Singh
35.	LPA-692-2023	State of Punjab and others Vs Ramesh Kumar Goyal
36.	LPA-724-2023	The State of Punjab and others Vs Kumar Singh Rana and others
37.	LPA-883-2023	The State of Punjab and another Vs Prem Savrup Chhabra
38.	LPA-856-2023	The State of Punjab and another Vs Harpal Singh Walia
39.	LPA-878-2023	State of Punjab and others Vs Gurdev Singh and others
40.	LPA-950-2023	Punjab State Power Corporation Limited and others Vs Pritpal Singh
41.	LPA-106-2023	State of Punjab and others Vs Baljinder Kumar Mantro
42.	LPA-111-2023	State of Punjab and others Vs Prem Sagar Bali
43.	LPA-1155-2023	State of Punjab and others Vs Navroop Singh and others
44.	LPA-956-2022	State of Punjab and others Vs Dharm Paul Sharma
45.	LPA-958-2022	State of Punjab and another Vs Varinder Kumar Sharma and others
46.	LPA-1341-2023	The State of Punjab and others Vs Sukhwinder Singh
47.	LPA-1344-2023	Punjab State Power Corporation Limited and another Vs Naseeb Chand
48.	LPA-154-2024	The State of Punjab and another Vs Shashi Kant Sodhi and another

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

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Amodh Sharma