

Neutral Citation No.

2024:PHHC:061885-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(103)

LPA-1760-2023 (O&M)
Decided on : 06.05.2024

Satnam Singh & others

.....Appellant(s)

Versus

State of Punjab & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE VIKAS BAHL**

Present: Mr.Amrik Singh, Advocate, for the appellant(s).

Mr.Saurav Khurana, Addl.A.G., Punjab.

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

CM-4423-LPA-2023

1. Notice in the application for condoning the delay of 51 days in filing the present appeal.

2. Mr.Khurana accepts notice on behalf of the State.

3. Accordingly, in view of the averments made in the application, duly supported by affidavit of applicant-appellant No.1, same is allowed.

Delay of 51 days in filing the appeal is hereby condoned.

4. CM stands disposed of.

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5. Exemption application is allowed as prayed for.

6. CM stands disposed of.

7. Consideration in the present appeal is to the judgment passed by the Learned Single Judge in CWP-12791-2023 whereby the writ petition was dismissed on 20.07.2023, rejecting the claim of allowances in lieu of additional charges.

8. The Learned Single Judge relied upon Rule 2.10 Vol-3 Chapter-II of the Punjab Civil Services (General Conditions of Service) Rules to come to the finding that the place of posting should be beyond 32 kms. It had also been brought to the notice of the Learned Single Judge that similar matters were pending and even an interim order had been passed. The Learned Single Judge held that interim orders would not be binding but chose not to attach said cases with the present case though he had discretion not to grant the said benefit of interim protection and proceeded to dismiss the writ petition.

9. Counsel for the appellants submits that written statement was not filed in the writ petition and thus, pleadings were not complete. In such circumstances, it is submitted that the said judgment would also have an adverse affect on the connected matters whereby the pleadings are being completed and directions have been issued while referring to the interim orders passed in CWP-22345-2022 on 28.09.2022 (Annexure P-18) and in CWP-27049-2022 on 12.12.2022 (Annexure P-19). Counsel has also pointed out further instructions reproduced in the present Letters Patent Appeal in support of his claim of daily allowances though such a plea had not been taken in the writ petition.

10. In such circumstances, we are of the considered opinion that parawise comments should also come from the State so that matter is decided by the Writ Court which is in the nature of Original Jurisdiction on the basis of the stance taken as per the relevant rules/instructions which would only have

been cleared if reply had been taken from the State, more so, when connected matters are stated to be pending for 30.05.2024.

11. Accordingly, in view of the peculiar facts and circumstances, we allow the present appeal, set aside the order dated 20.07.2023 and restore the writ petition to its original number and remand the matter to the Learned Single Judge. CWP-12791-2023 shall be tagged along with CWP-22345 & 27049-2022. It is made clear that we have not observed on the merits of the case and it would be open to the petitioners to amend the writ petition to take additional plea(s) if they so desire.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

06.05.2024
Sailesh

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No