

2025:PHHC:058675-DB



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

LPA-1283-2025 (O&M)

Date of decision: 05.05.2025

STATE OF PUNJAB & ANR.

.....Appellants

Versus

JAGDISH SINGH & ORS.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE ALOK JAIN**

Present:- Ms. Arundhati Kulshreshtha, AAG Punjab.

SUDHIR SINGH, J.

CM-3156-LPA-2025

For the reasons stated in application, same is allowed.

Delay of 76 days in filing the appeal is condoned.

LPA-1283-2025

Challenge in the instant intra Court appeal is to the order dated 13.01.2025 passed by the learned Single Judge, whereby the writ petition filed by respondents No.1 to 3 was allowed holding them entitled to all the monetary benefits from the date of filing of CWP-111-1999 onwards, besides interest @ 6% per annum on the said benefits from the date of the filing of the petition till the actual realization.

2. It may be noticed that in the earlier round of litigation, the matter went up to the Hon'ble Apex Court and while disposing of the SLP vide order dated 09.05.2017, the Hon'ble Apex Court had granted liberty to respondents No.1 to 3 to approach this Court in respect of the actual monetary benefits instead of limiting it to the notional basis. In terms of the said liberty, the writ petition was filed by respondents No.1 to 3, which was allowed by the learned Single Judge, vide order dated 15.02.2023. The said order was set aside by a Coordinate Bench of this Court in LPA-884-2023, remitting the matter to the learned Single Judge for adjudication of the claim of respondents No.1 to 3 for actual monetary benefits, on merits.

3. It was pursuant to the said directions, the writ petition came to be decided by the learned Single Judge, by the impugned order.

4. The facts regarding respondents No.1 to 3 being senior to the private respondents and the previous round of litigation, are not in dispute. The appellant-Authorities had contested the claim of respondents No.1 to 3 on the ground that since they had not actually worked on the promotional post(s) of Assistant Town Planner, when the writ petition/appeal preferred by them was pending before this Court, they were not entitled to the monetary benefits for the said period.

5. Learned counsel appearing for the appellants has vehemently argued that while passing the order dated 09.05.2017 (Annexure P-1 with the writ petition), the Hon'ble Apex Court did not issue any direction regarding the entitlement of respondents No.1 to 3

for the monetary benefits during the period, the writ petition remained pending and that only liberty granted to them was to agitate their claim before this Court. It is further argued that CWP-111-1999 (earlier writ petition) filed by respondents No.1 to 3 was decided on 16.09.2013, whereas LPA against the said decision was filed in the year 2016, there being delay of 3 years in such filing and merely because in the SLP, the Hon'ble Supreme Court had granted respondents No.1 to 3 liberty to re-agitate their claim by way of a fresh writ petition, would be no ground to bypass the factum of delay in filing the said LPA, especially when, the same was dismissed on the ground of delay as also on merits. It is further argued that while dismissing the earlier LPA, the Division Bench had rightly found that the grant of any relief to respondents No.1 to 3 would amount to directing the rule making Authority to rectify the anomaly. It is further argued that respondents No.1 to 3 were not promoted for want of eligibility under the existing service Rules. Learned counsel for the appellants has further argued that the learned Single Judge, while passing the impugned order has been swayed by the observation of the Hon'ble Apex Court in the aforesaid SLP, whereas as a matter of fact, the liberty granted to respondents No.1 to 3 in the aforesaid SLP was only with regard to agitating their claim before this Court by way of a fresh writ petition. It is also argued that it is not the case of respondents No.1 to 3 that they had been denied the promotion due to pendency of the departmental or criminal proceedings and their exoneration subsequently. While relying upon the judgment of the Hon'ble Supreme Court in **Union of India vs. B.M. Jha**, (2007) 11

SCC 632, it is argued that arrears of salary cannot be granted to respondents No.1 to 3, in view of the principle of 'no work-no pay' in case of retrospective promotion. Reliance is also placed upon the judgment of the Hon'ble Supreme Court in **Union of India & Anr. vs. Tarsem Lal & Ors.**, (2006) 10 SCC 145 and **Union of India & Ors. vs. P.O. Abraham and Ors.** C.A. No.8904 of 1994 decided on 13.08.1997. It is also argued that grant of interest @ 6 % per annum by the learned Single Judge, is also not tenable in the eyes of law.

6. We have heard the learned counsel for the appellants and have also gone through the paper book, including the impugned order.

7. The only question that arises for consideration by this Court is whether the order passed by learned Single Judge, requires any interference.

8. The appellants have not disputed the factum of respondents No.1 to 3 being senior to the private respondents. Rather, the plea taken by them is that respondents No.1 to 3 did not discharge their duties on the higher posts and, therefore, they were not entitled to the monetary benefits, as have been granted by the learned Single Judge. A perusal of the impugned order passed by the learned Single Judge would show that while considering the law laid down by the Hon'ble Supreme Court in various judgments, it has been observed that respondents No.1 to 3 had been denied the benefit of promotion for no fault of theirs and, therefore, the rule of 'no work-no pay', not being a thumb rule cannot be made applicable to the case of respondents No.1 to 3. The judgment in **Government of West Bengal**

v. **Dr. Amal Satpathi** 2024 (14) Scale 294, relied upon by the appellants, was held to be distinguishable by the learned Single Judge.

9. We find that once vide order dated 16.09.2013 passed in CWP-111-1999, the respondents No.1 to 3 were held entitled to be promoted from the date their juniors were promoted, their entitlement to the monetary benefits as allowed by the learned Single Judge, cannot be said to be illegal. Respondents No.1 to 3 have been held entitled to such benefits from the date of filing of CWP-111-1999 and not from the date of their retrospective promotion.

10. It is not a case, wherein the principle of 'no work-no pay' can be made applicable, particularly when, it could not be shown by the appellants that respondents No.1 to 3 have been denied benefit due to any departmental/criminal proceedings against them during the relevant period or thereafter.

11. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

12. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[ALOK JAIN]
JUDGE

05.05.2025
himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No