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

LPA-1841-2024 (O&M)

Date of Decision: 30.01.2025

STATE OF HARYANA AND OTHERS

.....Appellant (s)

V/s.

SUNITA SHARMA AND ANOTHER

.....Respondent(s)

CORAM: **HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**
 HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Vivek Chauhan, Addl. A.G., Haryana,
 for the applicants-appellants.

Mr. Suresh Kumar Kaushik, Advocate
 for the respondents.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. This is a case where the LPA has been preferred after a huge delay of 615 days. The explanation for the delay, which is stated in the application for condonation for delay i.e. CM-4362-LPA-2024, is solely on the ground that the issue was being examined by the audit department and it is on the basis of the audit objection that the appeal has been preferred now with delay of 615 days.

2. It is to be noticed that the Division Bench of this Court, vide order dated 22.05.2019, has decided two similar Appeals regarding the same issue, i.e. LPA-832-2019 titled as **State of Haryana and Others Vs. Dr. Vikas Gupta and another** and LPA-834-2019 titled as **State of Haryana and others Vs. Ashok Kumar Garg and another**, following the view already taken by this Court in **Dr. Romila Jain Vs. State of Haryana** ; 1995(3) SCT 53 where the period of service rendered by the Lecturer in



other institutions was counted for the purpose of granting of CAS benefit.

The Division Bench, in the said case, has held as under:-

“The learned single Judge while allowing the writ petitions has placed reliance upon a judgment of this court rendered in the case of Dr. Romila Jain vs. State of Haryana, 1995(3) SCT 53. wherein an identical issue was involved for adjudication. The learned single Judge also placed reliance upon the fact that the judgment rendered in the case of Dr. Romila Jain (supra) has subsequently been followed in a large number of cases including CWP No.20283 of 2005, decided on 28.04.2008 (Anil Kumar Dahiya vs. Union of India and others) and CWP No.6959 of 2009, decided on 04.12.2009 (Dr. V. Saraswati, Retd. Zoology Lecturer, GVM Girls College, Sonapat vs. The State of Haryana & others). Reference has also been made by the learned single Judge to various precedents granting identical relief as claimed by the respondents-petitioners to various other similarly situated employees.

Shri Balyan, learned Additional Advocate General for the State of Haryana, has tried to distinguish the judgment rendered in the case of Dr. Romila Jain (supra) by urging that since in the case in hand the appointment of the respondents-petitioners was made on a consolidated salary, therefore, the principles laid down in the said judgment would not stand attracted and the ratio decidendi has been wrongly relied upon by learned single Judge.

In reply, learned counsel appearing for the respondents-petitioners, referring to appointment letter of respondent-petitioner Dr. Vikas Gupta (Annexure P/2 in his writ petition), points out that the appointment was made with a starting basic pay of Rs.8000/- per month in the AICTE Grade of Rs.8000-275-13500/- plus DA admissible as per college rules and, thus, the contention advanced by learned Additional Advocate General is absolutely incorrect on facts. So is the case of the other respondent-petitioner wherein also the appointment was made on a scale of pay. Learned counsel for the respondents-petitioners



also pointed out that the respondents-petitioners were granted senior/higher pay scale after completion of five years of service in the respondent institution. Thus, the argument advanced by learned Additional Advocate General, Haryana, for distinguishing the ratio of the decision rendered in Dr. Romila Jain (supra) is untenable and has no legs to stand.

Another argument advanced by Shri Balyan, learned Additional Advocate General, Haryana, is in respect of delay and laches on behalf of the respondents-petitioners in approaching this Court for the relief claimed. This issue was raised before the learned single Judge as well and a finding has been returned that when the issue initially arose representations were made without any delay on 27.09.2006 followed by various reminder representations, but the same remained pending with the appellants undecided and it was only in pursuance to the direction issued by this Court on a writ petition filed by the respondents a decision on the representations was taken on 07.07.2015 in LPA-832-2019 and on 16.06.2014 in LPA-834-2019. It was only after the decision on the representations the jurisdiction of this court was invoked and, thus, it cannot be said that there was any delay and laches on the part of the respondents-petitioners. The argument of learned Additional Advocate General, on this score, is also not liable to be accepted as the same is not borne out from the facts and circumstances of the case.

No other ground was raised or pressed before us.

In the wake of the above facts and discussion, there exists no good ground for us to take a view different from the one taken by the learned single Judge. The appeals are devoid of merits and stand dismissed.”

3. The said view taken by the Division Bench of this Court has attained finality and the judgment passed by the learned Single Bench is based on the same view and therefore, the State had not earlier approached the Court. Merely on the basis of the audit objections, the Appeal would



not be maintainable before this Court and the delay cannot be condoned as well. In a recent judgment passed in Rajneesh Kumar and Another Vs. Ved Prakash ; 2024 (14) Scale 406, the Hon’ble Supreme Court has depicted the method and manner in which LPAs are being filed by the State.

4. As the issue is no more *res integra* in view of the judgment passed in *LPA-832-2019 & LPA-834-2019 (Supra)*, we accordingly dismiss this Appeal on the ground of delay as well as on merits with costs of ₹10,000/- to be deposited by the appellants in the Poor Patients Welfare Fund, PGIMER, Chandigarh.

5. All pending applications in this case are disposed of accordingly.

[SANJEEV PRAKASH SHARMA]
JUDGE

[MEENAKSHI I. MEHTA]
JUDGE

January 30, 2025
Ess Kay

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