



LPA-1982-2025 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CM-4906-LPA-2025 in/and
LPA-1982-2025 (O&M)
Date of decision : 04.09.2025****State of Punjab and others****... Appellants****Versus****Kanshi Ram****...Respondent****CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA****Present: Mr. Aftab Singh Khara, Senior DAG, Punjab
for the appellants.*************Anupinder Singh Grewal, J. (Oral)****CM-4906-LPA-2025**

This is an application seeking condonation of delay of 102 days in preferring the appeal.

Heard. For the reasons stated in the application, same is allowed and delay of 102 days in preferring the appeal is condoned.

Main case

The appellant has impugned the judgment of the Single Bench dated 20.01.2025 whereby the writ petition preferred by the respondent for grant of salary of the higher post of Sub-Divisional Engineer for the period he had worked, has been allowed.

2. Learned counsel for the appellant-Department submits that the respondent, who was working as an Assistant Engineer, was given the additional charge of the post of Sub-Divisional Engineer only on two occasions. The respondent had retired as an Assistant Engineer on 31.03.2006 and had raised the



claim for the pay to the post of Sub-Divisional Engineer only in 2012, after his retirement. He also submits that there is an inordinate delay in approaching the Court and therefore, the writ petition ought to have been dismissed on the ground of delay and laches.

3. Heard.

4. The respondent is stated to have worked with the appellant-Department, on the post of Assistant Engineer, prior to his retirement on 31.03.2006. He had been given the additional charge of Sub-Divisional Engineer on two occasions, for the period ranging from 23.06.1992 to 16.01.2000 and from 23.09.2005 to 31.03.2006, but even during this period, he was paid the salary of an Assistant Engineer. At the time of giving the additional charge to the respondent for discharging the duties as a Sub-Divisional Engineer, an office order was issued by the appellant-Department stating that the additional charge was being given to the employees working as Junior Engineers or Assistant Engineers temporarily, only to ensure smooth functioning of the Department, as the posts of Sub-Divisional Engineer had been lying vacant, but in lieu of this work, the employee would not be entitled to any additional allowance or pay. The Single Bench, while allowing the writ petition preferred by respondent, had relied upon the judgment of the Supreme Court in the case of **Secretary-cum-Chief Engineer, Chandigarh Vs. Hari Om Sharma**", (1998) 5 SCC 87, wherein it had been held that an agreement between an employee and the employer that if the employee is working on a higher post even as a stop-gap arrangement would not claim higher salary, would be contrary to law and public policy. The relevant extract of the judgment is reproduced hereunder:-

"8. Learned counsel for the appellant attempted to contend that when the respondent was promoted in stop-gap arrangement as Junior Engineer-I, he had



given an undertaking to the appellant that on the basis of stop-gap arrangement, he would not claim promotion as of right nor would he claim any benefit pertaining to that post. The argument, to say the least, is preposterous. Apart from the fact that the Government in its capacity as a model employer cannot be permitted to raise such an argument, the undertaking which is said to constitute an agreement between the parties cannot be enforced at law. The respondent being an employee of the appellant had to break his period of stagnation although, as we have found earlier, he was the only person amongst the non-diploma holders available for promotion to the post of Junior Engineer-I and was, therefore, likely to be considered for promotion in his own right. An agreement that if a person is promoted to the higher post or put to officiate on that post or, as in instant case, a stop-gap arrangement is made to place him on the higher post, he would not claim higher salary or other attendant benefits would be contrary to law and also against public policy. It would, therefore, be unenforceable in view of Section 23 of the Contract Act."

5. It is evident that the respondent had been given charge and had worked on the post of Sub-Divisional Engineer on two occasions, and therefore, he would be entitled to the salary of that post for the said period i.e., from 23.06.1992 to 16.01.2000 and from 23.09.2005 to 31.03.2006. Consequently, we do not find any illegality in the judgment of the Single Bench warranting interference by this Court and the Letters Patent Appeal being devoid of any merit stands dismissed.

6. All pending miscellaneous application(s), if any, shall also stand disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

04.09.2025

Sapna

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