

**SUPREME COURT OF INDIA**

State of Haryana

Vs.

Hardayal Singh Rawat

C.A.No.3526 of 2009

(D.K. Jain and R.M. Lodha JJ.)

12.05.2009

**ORDER**

1. Leave granted.

2. Challenge in this appeal, by special leave, is to a final judgment and order dated 14th November, 2002, passed by the High Court of Punjab & Haryana at Chandigarh in CWP No. 17983 of 2002. By the impugned order, without independently going into the facts of the case, the High Court has allowed the writ petition, preferred by the respondent, on the basis of its earlier decision dated 5th At the outset, it has been brought to our notice by learned counsel for the appellants that against the judgment of the High Court in the case of Man Singh (supra), a special leave petition was preferred and vide a common judgment dated 2nd August, 2006, the appeal of the State has been partly allowed with certain directions relating to the revision of pay scales of the respondents therein. Learned counsel prays that this appeal may also be disposed of in terms of the said decision.

3. Learned counsel for the respondent, on the other hand, submits that issue raised in the writ petition was not exactly similar to the one raised in Man Singh's case (supra) and therefore, the said decision of this Court may not fully cover this appeal. He, therefore, prays that this matter be heard afresh.

4. Having perused the impugned order, we are unable to persuade ourselves to agree with learned counsel for the respondent. It is manifest that while disposing of the writ petition by short order the High Court has opined that the matter was fully covered by Man Singh's case (supra). The order was dictated in open Court in the presence of counsel for both the parties and at that stage, no such, plea was raised.

5. In fact, even in the counter affidavit filed by the respondent in this appeal no such issue is raised. In our opinion, it is now late in the day for the respondent to take up any issue, which had not been adjudicated by the High Court in the first instance.

6. Accordingly, the appeal is partly allowed and it shall stand disposed of in terms of the decision of this Court dated 2nd August, 2006 rendered in Civil Appeal No. 3262 of 2006, State of Haryana & Ors. vs. Man Singh & Ors. There will be no order as to costs.