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C.A.No. 9943 OF 1995

Item No.101

COURT No. 4

SEC.IV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL No.9943/1995@@

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High Court of Punjab & Haryana

Appellant (s)

VERSUS

Bahadur Singh Batta

Respondent (s)

(With O.R.)

With C.A. No.8565/1997@@

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Date : 25.04.2001 This appeal was called on for hearing today.@@
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CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIK
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s) Ms. Kamini Jaiswal,Adv.
Mrs. Somila Bakshi,Adv.

For Respondent (s) Mr. P.N. Puri,Adv.
Mr. R.K. Chopra,Adv.

UPON hearing counsel the Court made the following

O R D E R

.....L.....I.....T.....T.....T.....T.....T.....J.
.SP2

The appeals are dismissed.

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(Y.P.Dhamija) (Suneet Bala Sharma)@@
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COURT MASTER Court Master

Signed order is placed on the file.

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.PL56

CIVIL APPEAL NO.9943/1995@@
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High Court of Punjab and ..Appellant
Haryana

Vs.

Bahadur Singh Batta ..Respondent

WITH CA NO.8565/1997@@
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O R D E R@@
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.....L.....I.....T.....T.....T.....T.....T.....J.
.SP2

C.A.No.9943/1995: This appeal is directed against@@
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the judgment of the Division Bench of Punjab High Court's dismissing the High Court Letter Patent Appeal against the judgment of a learned Single Judge. The question for consideration was whether the respondent was entitled to claim for stepping up of his pay in terms of the provision of Fundamental Rules on the ground that his erstwhile junior, in the cadre of clerks, is getting a higher salary in the promoted grade of Assistant or still higher grade. It transpires that the employees, who were appointed as Clerk on temporary basis, were required to pass a departmental examination for getting a substantive appointment, and it is on that score the respondent was not substantively appointed earlier and one Balwant Singh Virk, who was admittedly appointed as a Clerk at a later point of time was appointed substantively. The so-called administrative decision of the High Court in that regard was assailed, and finally this

Court in W.P. No. 331/1972 disposed of the Writ Petition by holding that the seniority of the employees in the cadre of Clerks would be counted from the date on which they were appointed originally irrespective of the date on which they passed the test or were exempted from the passing the test or were confirmed in the cadre of Clerks. Obviously, this Court has taken the view that continuance length of service in the cadre of Clerks should be the basis for determining the inter-se-seniority. Subsequent to the aforesaid order, the respondent, who was admittedly senior to said Balwant Singh Virk, in the cadre of Clerks, filed a representation to the High Court for stepping up of his pay in the higher grade on the ground that his erstwhile junior is getting a higher salary. That representation having been rejected, he filed a Writ Petition in the High Court, which was allowed by a learned Single Judge by his judgment dated 31.3.1994. The learned Single Judge noted the fact that it was not disputed that the Writ Petitioner was senior to said Balwant Singh Virk in the cadre of clerk. On the aforesaid basis, the learned Single Judge directed for stepping up of pay of the Writ Petitioner so that he would not get less salary than Shri Balwant Singh Virk. Aggrieved by the judgment of the learned Single Judge, a Letter Patent Appeal was filed, which stood disposed of by the impugned judgment. The Division Bench in the Letter Patent Appeal considered the provision of

