



RSA-2229-2024(O&M)

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

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RSA-2229-2024(O&M)

DATE OF DECISION : JANUARY 14, 2025

THE BLOCK DEVELOPMENT AND PANCHAYAT OFFICER, BARARA
SAMITI

...APPELLANT

Versus

SOM NATH AND OTHERS

...RESPONDENTS

CORAM : HON'BLE MS. JUSTICE LAPITA BANERJI

Present : Mr. Satish Chaudhary, Advocate
for the appellant.

LAPITA BANERJI, J.(ORAL)

CM-9106-C-2024

This is an application for condonation of delay of 338 days in re-filing the appeal.

Perused the grounds.

For the grounds mentioned in the application, the same is allowed and delay of 338 days in re-filing the appeal is condoned.

CM-9107-C-2024

This is an application for condonation of delay of 90 days in filing the appeal.



Perused the grounds.

For the grounds mentioned in the application, the same is allowed and delay of 90 days in filing the appeal is condoned.

Main case

This is an appeal from the order passed by the learned District Judge, Ambala on February 21, 2023.

2. Vide the impugned order, the learned District Judge, Ambala dismissed the appeal that was directed against the judgment and decree dated May 10, 2022 passed by the Civil Judge (Junior Division), Ambala.

3. The Civil Judge (Junior Division), Ambala had decreed the suit in favour of the plaintiff with costs against the defendants. It was held that the plaintiff was entitled to the benefits of first and second higher standard pay scales after completion of 10 and 20 years of service. Also, the plaintiff was held entitled to the benefits of first, second and third Assured Career Progressions (ACPs) upon completion of 10, 20 and 30 years of service along with retiral benefits like leave encashment and salary of five months along with interest as per the Haryana & Punjab State Services Rules. The plaintiff was held entitled to interest @ 6% per annum from the date of judgment of May 10, 2022 till the entire realisation.

4. The facts in the plaint briefly are as follows:-

- (i) The plaintiff was appointed as a Sweeper by the appellant-Panchayat Samiti, Barara provisionally on December 07, 1976.



Thereafter, he was regularized vide a letter dated July 10, 1979 and continuously worked under defendant No.2 (appellant herein) and defendant No.3-Block Panchayat, Samiti Barara till his retirement. During the entire period of service, the plaintiff was not given any promotion, whereas he was entitled to the benefits of first higher standard pay scale after completion of 10 years of service and second higher standard pay scale after completion of 20 years of service. The plaintiff should also have been given benefits of first, second and third ACPs on completion of 10, 20 and 30 years of service under the Policy of ACPs of 1998 (as amended). The plaintiff was not given the General Revision Pay Scales of 1986, 1996 and 2006 while the same was given to all other employees Ambala Cadre as well as in Haryana. All the representations made by the plaintiff to the defendants concerned, went in vain.

(ii) During his retirement, the plaintiff was neither given the leave encashment benefits, nor salary for last five months from February 2004 to June 2004. His salary for last five months of service was paid after a delay of 10 years in 2014. The plaintiff had prayed for interest @ 12% per annum for the inordinate delay in release of such salary.

5. In the joint written statement filed by defendants No.1 and 2, it was urged that the plaintiff was an employee of the Panchayat Samiti, which was an autonomous body. The entire benefits had been given to the plaintiff prior to his retirement and nothing further was due and payable to



him. Therefore, the suit was required to be dismissed with costs against the plaintiff.

6. Defendant No.3 had filed separate written statement and it was urged that the plaintiff was not absorbed by the State Government and therefore, the benefits prayed for by the plaintiff were inadmissible in law. The extent of service rendered by the plaintiff was admitted as being a matter of record.

7. The issues framed by the Trial Court are reproduced hereunderbelow:-

“1. Whether the plaintiff is entitled to the decree for declaration, as alleged, on the ground mentioned in the plaint?

2. Whether the suit is not maintainable in the present form?

3. Whether the plaintiff has no cause of action to file the present suit?

4. Whether the plaintiff is stopped from filing the present suit by his own act and conduct?

5. Whether plaintiff has not come to the Court with clean hands and has concealed three and material facts from the Court?

6. Whether suit is bad for mis-joinder of parties?

7. Whether the suit is barred by time?

8. Relief.”

8. The learned Trial Court while deciding the first issue, referred to the judgment of this Hon’ble High Court in **CWP No.7778 of 2013** titled **Hanuman Vs. State of Haryana and others** decided on 16.01.2020 and discussed the provisions of Section 33(c) of the Punjab Panchayat Samitis



and Zila Parishads Act, 1961 (for short ‘the 1961 Act’). As per said Section, the employees of the Panchayat Samiti were entitled to pension or entitled to subscription on their behalf for pension or gratuity provided the conditions of service were not more favourable than the conditions of service prescribed for a Government servant.

9. Section 15 of the Punjab Panchayat Samitis and Zila Parishads Services Rules, 1965 (for short ‘the 1965 Rules’) provides that the provisions of the Punjab Civil Services Rules as amended from time to time are applicable in case a matter is not expressly covered under 1965 Rules or any other Rule framed under the 1961 Act. Section 15 of the 1965 Rules is reproduced hereunderbelow:-

“15(1) In matters not expressly covered by these rules or any other rules framed under the Punjab Panchayat Samitis and Zila Parishads Act, 1961, the members of the service shall be governed by the provisions of the Punjab Civil Services Rules as amended from time to time in so far as they are not inconsistent with the provisions of the aforesaid Act, and the rules made thereunder:

Provided that for words “Government Servants” wherever they occur in the Punjab Civil Services Rules the words “Panchayat Samiti or Zila Parishad, as the case may be”, and “member of the Punjab Panchayat Samitis and Zila Parishads Service” shall be deemed to have been constituted respectively.

(2) The competent authority may construe the provisions of the rules referred to in sub-rule(1) above with such adaptations not affecting the substance thereof as may be necessary or proper in order to adapt them to the matter before such authority:



Provided that if any doubt arises regarding the adaptations with which the said rules should be construed, the matter shall be referred to the Government and the decision of the Government on such reference shall be final.”

10. Section 33 of the 1961 Act stood deleted by virtue of Section 13 of the Punjab Panchayat Samitis and Zila Parishads (Haryana Amendment) Act, 1973 (for short ‘the 1973 Act’). Therefore, the Trial Court held that Section 15(1) of the 1965 Rules is applicable and relying on the same, the Punjab Civil Services Rules were also applicable to the employees of Panchayat Samiti. The same was also not denied by the defendants. Therefore, it was held that the plaintiff was entitled to all the benefits of the first and second higher standard pay scales on completion of 10 and 20 years of service and first, second and third ACPs on completion of 10, 20 and 30 years of service along with his retiral benefits and interest on the salary of five months for delayed payment of 10 years.

11. Accordingly, issues No.2 to 7 were also decided against the defendants and the suit was decreed in favour of the plaintiff, granting the reliefs already mentioned hereinabove.

12. The First Appellate Court took into consideration the material on record, the arguments of learned counsel for the parties and provisions of Section 33(c) of the 1961 Act. Furthermore, Section 15 of the 1965 Rules as well as the fact that Section 33 of the 1961 Act being deleted by Section 13 of the 1973 Act was also considered. Therefore, the argument that since the service of the plaintiff was not provincialised, he was not entitled to



pensionary benefits, was held to be unsustainable. Hence, it was held that the learned Trial Court had rightly recorded the findings in the impugned judgment/order and it was upheld.

13. The short question of law that falls for consideration is whether the plaintiff being an employee of Panchayat Samiti was entitled to the benefits given to Government servants. Rule 15(1) of the 1965 Rules itself provides for the applicability of the Punjab Civil Services Rules. There is no dispute as to the said Rule governing the field as on date. Consequently, relying on the said Rule the applicability of the Punjab Civil Services Rules to the employees of the Samiti as long as they are not inconsistent with the 1961 Act or the 1965 Rules, cannot be doubted. Therefore, the benefits given under the Punjab Civil Services Rules as long as not inconsistent with the 1961 Act can be and should be granted to the employees.

14. This Court has considered both the judgment and decree passed by the trial Court and the judgment passed by the First Appellate Court and does not find any infirmity in the same. It has not been argued or pointed out why Section 15 of the 1965 Rules is not applicable and why the pension as granted under the Punjab Civil Services Rules cannot be granted to the plaintiff. It is noted that no appeal has been preferred by defendant No.3.

15. Accordingly, this Court finds no arbitrariness or illegality in



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the concurrent findings of both the Courts below. Consequently, **RSA No.2229 of 2024 is dismissed.**

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

(LAPITA BANERJI)
JUDGE

JANUARY 14, 2025
Prince

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