

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA No.1770 of 2015

Date of Decision:-13.07.2015

Shiv Kumar

.....Appellant

Versus

Chaudhary Charan Singh, Haryana Agricultural University

.....Respondent

CORAM:- HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Jitendra Sharma, Advocate for the Appellant.

RITU BAHRI, J.

Plaintiff-appellant has preferred the present second appeal against the judgments of concurrent findings of facts dated 18.01.2010 and 06.12.2014 passed by the Civil Judge (Junior Division), Hisar and Additional District Judge, Hisar respectively, whereby his suit for declaration to the effect that he is entitled to pay scale of Rs.1200-2400/- (pre-revised pay scale of Rs.480-760) w.e.f. 1.1.1986 with consequential relief of mandatory injunction directing the defendant to grant him all the arrears of pay, increments and other attached monetary benefits, has been dismissed.

Vide letter dated 13.12.1976 issued by the defendant-university, Shiv Kumar-plaintiff (appellant herein) was appointed as Carpenter on adhoc basis in the pay scale of Rs.120-200/-. After rendering seven years of uninterrupted service without break, he was appointed to the

adhoc post of Carpenter in the pay scale of Rs.400-600/- vide letter dated 18.08.1983. Later on, his services were regularized. As per plaintiff-appellant, w.e.f. 01.01.1986 his pay scale was revised from Rs.400-600/- to Rs.950-1400/-. Case of the plaintiff was that he was entitled to get the pay scale of Rs.1200-2040/- w.e.f. 01.01.1986 as various Carpenters working in other departments of Haryana were being granted the pay scale of Rs.1200-2040/- w.e.f. 01.01.1986. Plaintiff-appellant, by way of representations, requested the respondent-defendant (department) to grant him the aforesaid pay scale of Rs.1200-2040/-, but the same was not considered, which resulted into filing the present suit.

Upon notice, respondent-defendant filed written statement taking preliminary objections with regard to maintainability, limitation, cause of action, locus standi, estoppel, mis-joinder and non-joinder of necessary parties. On merits, all the allegations were denied and it was stated that as the plaintiff was only matriculate and not ITI pass, as such the scale of Rs.1200-2040/- w.e.f. 01.01.1986 and that of Rs.4000-6000/- w.e.f. 01.01.1996 was not admissible to him. There was a great difference of responsibility to be shared by the carpenter working in the directorate of extension education of different university in comparison to the carpenters in other departments/institution of Haryana Government. The nature of work performed by the plaintiff in the university was light in comparison to the other departments, therefore, he could not claim parity with the employees of the Haryana Government. The plaintiff had applied for the post being a matriculate and having required experience. He did not fulfill the technical qualifications of Trade Course in Carpentry. Therefore, on the basis of his experience he was appointed to the post of Carpenter at the

initial salary of Rs.120/- per month in the pay scale of Rs.120-200/- on adhoc basis.

From the pleadings of the parties, following issues were framed by the learned trial Court:-

- 1. *Whether* the plaintiff is entitled to a decree for declaration on the grounds as alleged in the plaint?OPP
- 2. Whether suit of the plaintiff is not maintainable in the present form?OPD
- 3. Whether the suit of the plaintiff is time barred? OPD
- 4. Whether the plaintiff has not come to the court with clean hands?OPD
- 5. Whether the plaintiff has no cause of action and locus standi to file the present suit? OPD
- 6. Whether the suit is false, frivolous and is liable to be dismissed with costs under Section 35-A CPC? OPD
- 7. Whether the suit is bad for mis-joinder and non-joinder of necessary parties?OPD
- 8. Whether the plaintiff is stopped by his own act and conduct from filing the present suit? OPD
- 9. Relief.

Trial Court, after going through the evidence led by the parties, dismissed the suit. The lower appellate Court affirmed the findings of the trial Court and dismissed the appeal. Hence, this appeal.

The State Government had revised the scales from time to time and prescribed two different pay scales for technical employees, including carpenters, on the basis of qualification, which are as under:-

Sr. No.	Revised pay scale including application substituted pay scale w.e.f. 01.01.1986	Revised pay w.e.f. 01.01.1996	Pay Scale as per
1	Rs.850-1150	3000-4350	For non-metric
	Substituted with ITI		
	Rs.950-1400		
2	Rs.1200-2040 ITI	4000-6000	For Metric with ITI

These pay scales were depicted as per Ex.P7 to Ex.P11. In

view of the above, the plaintiff being non ITI, was not entitled for the pay scale of Rs.1200-2010 w.e.f. 01.01.1986.

The defendant-University was to follow the State Government pay scale as per letter dated 23.08.1990, as modified on 06.07.1991, which says that:-

General Recommendation

Regarding technical post	750-940	1200-2040
Various departments	775-1025	
For which minimum	800-1150	
Education qualification	950-1400	
Prescribed is matric with ITI certificate/Polytechnic	950-1500	

These pay scales were made application to the defendant-University w.e.f. 01.05.1990 and on a technical post, the essential qualification was matriculate with ITI. Hence, the plaintiff-appellant could not be held entitled to the pay scale of Rs.1200-2040 w.e.f. 01.01.1986. Since the plaintiff-appellant was not having qualification of matric with ITI certificate/polytechnic, the trial Court dismissed his suit. On appeal, the lower appellate Court affirmed the findings recorded by the trial Court.

Learned counsel for the appellant has not been able to make out a case, as to how as per letter dated 01.05.1990 when the defendant-university decided to follow the State Government pay rules, the plaintiff-appellant, who was not having requisite qualification of matric with ITI, was entitled to revised pay scale of Rs.1200-2040. The defendant-University is governed by the instructions/circulars issued by the State Government from time to time for grant of pay scales. In the matter of grant of pay scale, the university cannot deviate from the conditions and give these pay scales to ineligible employees. The issue with regard to grant of

pay scale has been considered by the Hon'ble Supreme Court in *State of West Bengal Vs. Tropical School Employees' Union*, 1996 (2) RSJ 500, where it has been held that the Government servant cannot get higher scale of pay than prescribed to the post.

After going through the impugned judgments, this Court is of the view that suit of the plaintiff-appellant has been rightly dismissed by both the Courts below. The evidence has been appreciated in the right perspective. No illegality, much less perversity, has been found in the impugned judgments, warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

13.07.2015
ajp

(RITU BAHRI)
JUDGE