IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Regular Second Appeal No. 22 of 2014 (O&M)

DATE OF DECISION : August 13, 2015

Haryana State Agricultural Marketing Board

.... Appellant (S)

VERSUS

Nar Singh

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. C.S. Singh, Advocate, for
Mr. G.S. Hooda, Advocate, for the appellant.
Mr. N.C. Kinra, Advocate, for the respondent.

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1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO
2. To be referred to the Reporter or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

...

ARUN PALLI, J. (Oral)

Suit filed by the plaintiff was decreed by the trial Court, vide judgment and decree dated 28.04.2011. Appeal preferred against the said decree failed and was dismissed by the

Ist Appellate Court on 08.08.2013. This is how, defendant is before this Court in this Regular Second Appeal. Parties to the list, hereinafter, will be referred to by their original positions in the suit.

In a suit filed by the plaintiff, he prayed for a declaration that he was entitled to a step up in his pay so as to be at par with the pay of his juniors at ₹640/- as on 09.08.1979, at ₹660/- as on 01.04.1980 and at ₹700/- as on 01.04.1981, with consequential benefits, along with interest.

In short, it was pleaded that the plaintiff was a permanent employee of Haryana State Agricultural Marketing Board and was posted as Assistant Secretary in Market Committee, Naraingarh. He was initially appointed as Fee Collector in the pay scale of ₹140-6-170/8-210/10/300 in the Market Committee, Radaur. One Rulda Ram, retired Mandi Supervisor, told the plaintiff that the Board had stepped up the pay of more than 50 employees, pursuant to the orders of the Court or even suo moto, including those who were junior to the plaintiff. And in fact, pay of Mohinder Singh, Zile Singh, Sajjan Singh and Raghubir Singh, who happened to be junior to the plaintiff, had indeed been stepped up by the Board. Posts of Mandi Supervisor and Fee Collector were equivalent for all intents and purposes with the same scale of pay and common seniority. Plaintiff and his juniors had joined as Mandi Supervisor/Fee Collector in the pay scale of ₹140-300, that was revised from time to time. Accordingly, the pay of the plaintiff and his juniors was fixed in the revised pay scale of ₹525-1050 as on 01.04.1979 or date of option. Further, pay of the juniors of the plaintiff was fixed at ₹540 or ₹555/- as on 01.07.1980, as against the pay of the plaintiff at ₹585/- in the revised scale of pay i.e. ₹525-1050. And pay of Amarjeet Jindal, Secretary, Mandi Dabwali, too had been stepped up suo motu, at par with the pay of his juniors, pursuant to an order dated 20.01.2003. Similar benefit of step up of pay equal to their juniors was afforded to 46 Mandi Supervisors/Fee Collectors, as per information supplied to Shri Jasbir Singh, E.O.-cum-Secretary, Market Committee, Pehowa, vide letter dated 25.06.2008. Board had preferred an appeal against the order vide which the pay of Mandi Supervisors-cum-Fee Collectors was stepped up, but this Court dismissed the said appeal. Defendant had stepped up the pay of those who were junior to the plaintiff and he had mentioned the names of a few whose pay had been stepped up at par with their juniors but the plaintiff was discriminated.

In defence, it was pleaded, inter alia, that plaintiff is not entitled to the relief prayed for, since his pay was fixed pursuant to the Government instructions dated 28.12.1981. It was maintained that the plaintiff could seek parity in pay provided junior officers also belonged to the same cadre. Further, pay of senior employees of the Board was stepped up at par with their juniors but the plaintiff was not entitled to the said benefit as each case had to be decided on its own merits.

On an analysis of the matter in issue and the evidence on record, the trial court arrived at a conclusion that even though plaintiff had not worked on a particular post, but there indeed existed an anomaly as persons junior to the plaintiff were being afforded higher pay and, thus, pay of the plaintiff was required to be stepped up so as to be equal to his juniors. Nothing adverse was recorded against the plaintiff in his service record. Persons similarly placed were afforded the same benefit. It indeed was a punishment that the plaintiff was getting lesser salary than his juniors and, thus, his pay was required to be stepped up. Accordingly, the suit was decreed.

Being aggrieved against the said decree, defendant preferred an appeal. Ist Appellate Court reviewed the matter in issue, evidence on record and, on any analysis thereof, concurred with the findings recorded by the trial Court. The appeal was, accordingly, dismissed.

I have heard the learned counsel for the parties and perused the paper book.

Learned counsel for the appellant simply seeks to reiterate the submissions that were advanced before the courts below and rejected after due and comprehensive consideration. No other argument was advanced.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the instant appeal is wholly devoid of merit and is, thus, liable to be dismissed for the reasons that are being recorded hereinafter.

Concededly, plaintiff was a regular employee of the Board and was initially appointed as Fee Collector. It is also not disputed that pursuant to the Government instructions dated

28.12.1981, the Board had fixed the pay of certain employees on the principle of step up, equal to their juniors. As observed by the Ist Appellate Court, the only issue involved for determination was as to whether the cause of the plaintiff was identical to the other cases. Though, it was sought to be urged that the plaintiff belonged to a different cadre than those who were given the benefit of step up of pay. However, on an analysis of the record, it was concluded that the pay scales of Auction Recorder, Clerk, Care Taker, Store Keeper, Moharar and Fee Collector, were similar and these were equal posts and carried the same pay scale. The testimony of Raj Pal, DW-1, examined by the defendant-Board reveals that the plaintiff was appointed as a Fee Collector in the year 1981 and, subsequently, his scale was re-fixed pursuant to revision of pay. He also conceded that the pay of Rulda Ram was stepped up on the principle of step up equal to the pay of Faquir Chand, who was junior to him, as could be seen from the order, Exhibit P-19. And he was granted arrears from the year 1979, though the order of pay step up was passed in the year 2007. He also conceded that the plaintiff happened to be senior to all the employees, including Mohinder Singh, Zile Singh, Sajjan Singh, Raghbir Parsad, and those all were junior to the plaintiff when their pay was fixed as Fee Collector. Concededly, vide orders, Exhibits P-3 to P-6, pay of all the said four employees was stepped up and they were paid the arrears with interest. So much so, he also admitted that the posts of Mandi Supervisor and Fee Collector were in the same cadre and carried the same pay scale. Even the seniority list of Mandi Supervisors and Fee Collectors was also common. Still further, pursuant to the orders either passed by the Court or by the Board itself, pay of 46 employees was stepped up. That being so, the Ist Appellate Court rightly concluded that no further evidence was required to hold that plaintiff too was entitled to step up in his pay, pursuant to the instructions dated 28.12.1981. Persons, who were identically situated and circumstanced as the plaintiff, had already been granted the benefit by the defendant but, for no tangible reason, the plaintiff was discriminated for a long time. As regards findings on issues No.2, 4 and 6, Ist Appellate Court, in reference to the decision by this Court in RSA-1622-2008 decided on 21.05.2009, as also RSA-829-2006 decided on 03.04.2006, concluded that similar objections raised by the defendant as regards the maintainability of the suit in the wake of the provisions of Section 31 of the Punjab Agricultural Produce Markets Act, 1961, and the jurisdiction of the civil court to entertain such a suit, had already been decided against the defendant. And there was nothing on record to assail those findings.

Learned counsel for the appellant could not point out as to how the conclusions that have concurrently been arrived at by both the Courts below were either contrary to the position on record or suffered from any material illegality.

In the wake of the position, as set out above, there hardly exists any ground, least plausible in law, to interfere with the decree being assailed. No question of law, much less any substantial question of law, arises for consideration. The same being devoid of merit is, accordingly, dismissed.

AUGUST 13, 2015 (ARUN PALLI)
Kang JUDGE