

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

**Civil Revision No.5948 of 2014 (O&M)
Date of Decision: 29.08.2016**

**Central Council for Research in Ayurveda and Siddha and
anotherPetitioners**

Vs

**Jaspal Kaur LRs of Hukam Chand and others
.....Respondents**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. R.K. Verma, Advocate
for the petitioners.

Mr. S.K. Verma, Advocate
for the respondents.

RAJ MOHAN SINGH, J

[1]. Petitioners have assailed order dated 09.04.2014 (Annexure P-7) whereby objections filed by the judgment-debtors were dismissed and the application for compliance of judgment and decree dated 27.01.2006 was allowed.

[2]. Decree-holder filed an application under Section 47 CPC for compliance of judgment and decree by directing the judgment-debtors to place decree holder in higher pay scale after giving benefit of revision of pay scale w.e.f. 01.01.1986, 01.01.1996 and 01.01.2006 along with all consequential

benefits as per judgment and decree dated 27.01.2006.

[3]. Suit for declaration filed by the plaintiff/decreed-holder was decreed and he was held entitled to pay scale of Rs.210-270 instead of Rs.196-232. Decree-holder was entitled for the pay scale of Rs.210-270 from his initial appointment i.e. 21.05.1979 and the action of the Authorities was held to be illegal. Arrears were restricted to 38 months. Judgment-debtors admitted the claim of the decree-holder and gave a cheque of Rs.50,900/-. Decree-holder was entitled to the benefit of pay which was to be fixed in the pay scale of Rs.210-270 from his initial date of appointment on notional basis and thereafter arrears were to be given to the decree-holder from the date of the filing of the suit as per judgment and decree. Decree-holder was to be treated as Field Attendant for all intents and purposes and he was to be placed in the higher pay scale according to revision of pay scale w.e.f. 01.01.1996.

[4]. As per civil Court decree dated 27.01.2006, suit of the plaintiff Hukam Chand Field Attendant challenging office order dated 19.05.2003 was decreed to the effect that office order dated 19.05.2003 was declared to be illegal, ultra vires, *mala fide*, null and void, and against the service rules governing the services of the plaintiff/decreed-holder. Plaintiff was treated to be

in continuous service on the post of Field Attendant with all benefits and privileges attached to the post for the period of three months prior to the filing of the suit. Thereafter the said judgment and decree was upheld in appeal before the learned District Judge, who dismissed the same.

[5]. Decree-holder filed application under Section 47 CPC of compliance of the judgment and decree and claimed fixation of pay scale of Rs.210-270 from his initial date of appointment notionally and payment of arrears from the date of filing of the suit. Decree-holder also claimed that he was to be treated as Field Attendant for all intents and purposes and was to be placed in higher pay scale according to the revision of pay scale w.e.f. 01.01.1986 and thereafter his pay was to be enhanced in higher pay scale by refixing the pay.

[6]. The decree-holder was also entitled to revision of pay scale w.e.f. 01.01.1996. Decree-holder was also claimed for grant of Assured Career Progression which was to be from the year 1992 and thereafter in the year 2003 as he was not promoted in his whole career. Decree-holder being Field Attendant was entitled to two step-up and he was also entitled to the benefit of 6th Pay Commission. The arrears were to be paid w.e.f. 01.01.2006 after revision of pay in the requisite pay

scale along with arrears of 4th, 5th and 6th revision of pay scale and two step-up under Assured Career Progression Scheme. Since the judgment and decree passed by the trial Court and affirmed by the Appellate Court had already attained finality, therefore, the aforesaid benefit was to be paid to the decree-holder and his pay was to be fixed in the pay-scale of Rs.210-270 from his initial date of appointment after giving him the benefits, however arrears were restricted for the period of 38 months. The decree-holder was recommended for Assured Career Progression Scheme as per circular issued by the Government, which was duly adopted by the Department.

[7]. The claim of the decree-holder was contested by the petitioner-Council in execution on the premise that the order of Assured Career Progression Scheme was extended to the Council's employees w.e.f. 09.08.1999 and Field Attendant was entitled to upgradation on completion of 24 years of Regular Service in the grade subject to fulfilment of all the promotional norms under the recruitment rules. It was alleged that the Field Attendant was having promotional hierarchy. It was also alleged that decree-holder was only a middle pass, whereas the essential qualification for higher post i.e. Field Collector/Field Assistant was matric or equivalent. The essential qualification was stated to be mandatory for consideration of higher pay

scale in Assured Career Progression Scheme.

[8]. The objections filed by the petitioners in execution were duly refuted by the decree-holder on the ground that the objections were not in compliance of the judgment and decree whereby the decree-holder was held entitled to all the benefits to the post of Field Attendant including 1st and 2nd upgradation after granting the first time bound promotional scale in the pay scale of Rs.2650-4000 and after 12 years of service the time bound promotional scale was admissible to the decree-holder w.e.f. 1992 i.e. Rs.3050-4590. After granting second time bound promotional scale in the pay scale of Rs.3050-4590 and after 24 years of service, time bound promotional scale was admissible from the year 2003 i.e. Rs.4000-6000. After revision of pay scale w.e.f. 01.01.2006, the decree-holder was entitled to pay scale of Rs.5200-20200. Since the decree-holder was not granted admissible benefits, therefore, his pay was to be fixed accordingly and arrears were to be paid after re-fixing his pay in the revised pay scale. Reference was made to the case of Muni Lal Pharmacy Attendant whose pay scale was equivalent to the Field Attendant and he was granted pay scale w.e.f. 23.05.1979 and 1st and 2nd upgradation in the pay scale. The decree-holder further alleged that his case was forwarded with regard to pay scale of Rs.2650-4000 and after first step up i.e. Rs.3050-4590

and second step up i.e. 4000-6000 according to letter dated 04.08.2000, but relevant benefit was not granted and the action of the petitioner/department was claimed to be illegal. IInd step up admissible to the decree-holder after 24 years of service i.e. Rs.4000-6000 was illegally denied. Decree-holder was entitled to time bound promotional scale and the same was illegally denied.

[9]. The decree-holder also pressed into service that the objection regarding qualification was to be considered in view of circular No.159 dated 27.06.2003. The petitioners tried to stop execution of judgment and decree on the ground of alleged disqualification in terms of academic qualification. The judgment debtor also sought for the return of the execution of the decree-holder for presenting himself before the appropriate forum i.e Central Administrative Tribunal for disposal. The decree-holder died during pendency of the proceedings and his legal heirs were brought on record.

[10]. The decree-holder was to be treated as Field Attendant for all intents and purposes. The petitioners did not assail the judgment and decree dated 27.01.2006 before this Court and, therefore, decree-holder was entitled to revision of pay scale w.e.f. 01.01.1986 i.e. Rs.800-1150, thereafter revision of pay

scale w.e.f. 01.01.1996 i.e. Rs.2650-4000 and time bound promotional scale on completion of 12 years of service i.e. Rs.3050-4590 and admissible pay scale on completion of 24 years of service as Field Attendant i.e. Rs.4000-6000.

[11]. The objections which were projected before the executing Court were never taken during the progress of the suit as well as before the first Appellate Court. The objections with regard to lack of academic qualification does not hold good in view of the circular dated 27.06.2003. Moreover no such objection was taken in the suit proceedings and the suit was decreed. Executing Court is not expected to go beyond the decree passed.

[12]. In considered opinion of this Court, the objections raised in the execution cannot create any impediment for execution of decree. The executing Court has also observed that the rights of Field Attendant were granted to the decree-holder and consequently he was given pay scale of Rs.210-270. Decree-holder was entitled to all the consequential benefits to the post of Field Attendant and revision of pay w.e.f. 01.01.1986, 01.01.1996 and time bound promotional scale on completion of 24 years of service as Field Attendant i.e. Rs.4000-6000. This benefit was to be granted to the decree-

holder in execution of the decree. Since these consequential benefits were not excluded by any mandate of the Court, therefore, these benefits can be given to the decree-holder on any of the objection which the petitioners intended to project before the Executing Court.

[13]. In view of aforesaid, I see no infirmity in the impugned order passed by the executing Court, therefore, this revision petition is dismissed.

August 29, 2016
Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes / No

Whether reportable Yes / No