

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

RSA-2340 of 2002 (O&M)

Date of decision: 12.05.2016

Haryana State through Collector and others

...Appellants

Versus

Umed Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Jai Vir Yadav, Advocate for the respondent.

Jitendra Chauhan, J. (Oral)

The suit for declaration filed by the plaintiff/respondent was decreed by the trial Court, vide judgment and decree dated 30.10.2000.

2. Aggrieved against the findings of trial Court, the defendant/appellants (for brevity 'the appellants') filed an appeal which was dismissed by the learned 1st Appellate Court, vide judgment and decree dated 18.09.2001.

3. The 1st Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record, hence, the instant

appeal has been filed by the defendant/appellant.

4. On behalf of the appellant-State, it is contended that both the Courts below have misconstrued and misinterpreted the evidence on record. As per Haryana Government notification dated 23.08.1990, the employee working on technical posts in the Haryana Roadways workshops having education qualification of matric with ITI certificate/diploma holder were given the pay scale of Rs.1200-2040 w.e.f. 01.05.1990. However, the same scales were withdrawn, vide letter dated 14.05.1992, issued by Transport Commissioner, Haryana. The appellant was appointed on the post of helper welder which falls under the category of unskilled post as per instructions and under the provisions of the Industrial Disputes Act. However, both the Courts below have not taken into consideration the above facts of the case.

5. On the other hand, the learned counsel for the respondent states that both the Courts below have rightly decreed the suit of the plaintiff/appellant.

6. Heard, the learned counsel for the parties and perused the record carefully.

7. It is relevant to mention here that this RSA was ordered to be listed after the decision of Civil Writ Petition No.6473 of 1992, which was decided on 03.02.2014.

8. In the instant case, the appellant was appointed on the post of Helper-Welder in Haryana Roadways, Fatehabad Depot on 01.05.1992. He was having qualification upto matric and ITI diploma. His pay scale was Rs.750-940. The pay scales of the employees working on technical posts were revised, vide notification dated 23.08.1990 of the Haryana Government and subsequent thereto, the revised scales were withdrawn, vide order dated 14.05.1992. Aggrieved against the same, the affected employees had preferred a civil writ petition before this Court, whereby the matter had been stayed and the writ petitioners were granted the revised pay scale of Rs.1200-2040, including other helpers. Vide order dated 03.02.2014, passed in CWP No.6473 of 1992, it has been observed as under:-

“In the light of the peculiar facts and circumstances of the present case and also keeping in view the fact that the writ petition is pending since the year 1992 with the favourable order of stay in favour of the petitioners, the writ petition is disposed of with directions to the respondents to re-consider the claim of the petitioners, as made in the present writ petition and pass an appropriate order in accordance with law within a period of four months. Even if an order against the interest of the petitioners is finally passed by the respondents, no recovery shall be effected from the petitioners in pursuance to the orders dated 14.05.1992 and 18.05.1992 (Annexures P-5 and P-6 respectively).”

9. The respondent had died on 25.04.2014 as per the death certificate issued by Sub Registrar, Birth & Death, M.C. Rohtak, dated 29.04.2014. Another development which had taken place during the pendency of the instant appeal is that a notification dated 10.12.2013 issued by Haryana Ordinance No.6/2013 titled as The Haryana (Abolition of Distinction of Pay Scale between Technical and Non-Technical Posts) ordinance 2013 has come into being and according to which instructions bearing No.6/23/3 PR(FD)-88 dated 23.08.1990 have been withdrawn and shall be deemed to have been withdrawn with effect from the date of there coming into force. However, there is a proviso of the above which reads as under:-

“Provided that all those persons who had been granted the up-graded pre-revised pay scale under the aforesaid instructions or by virtue of any order of the Court before coming into force of this ordinance shall be continue to draw these pay scales.”

10. Once, the similarly situated helpers have been granted the same benefit, the appellant cannot be deprived of the same. Thus, both the Courts below have rightly granted the benefit of revised pay scale to the appellant.

11. Therefore, in view of above facts and circumstances of the case, this Court is of the opinion that both the Courts

below have rightly dealt with the issues in the right perspective.

There are concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties. Therefore, this Court finds that the contentions have no merit as they only relate to the appreciation of evidence. Neither any evidence is shown to have been ignored from consideration, nor there is any misreading of evidence.

12. These are pure findings of fact. No question of law, much less substantial question of law, arises in the present appeal.

Dismissed in limine.

12.05.2016

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(JITENDRA CHAUHAN)
JUDGE