

In the High Court of Punjab and Haryana at Chandigarh

Regular Second Appeal No. 3751 of 2005 (O&M)
Date of Decision: 03.2.2016.

Chaudhary Charan Singh Haryana
Agricultural University, Hisar

.....Appellant

Versus

Manmat

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Saurav Gulia, Advocate
for the appellant.

Mr. Divya Sarup, Advocate
for the respondent.

SABINA, J.

Plaintiff-respondent had filed suit for declaration claiming that he was entitled to pay scale of ₹ 1200-2040 with other allowances from the date of his regularization.

Case of the respondent, in brief, was that he was appointed as a Plumber Ist Grade on work charge basis with the defendants in the pay scale of ₹ 125-175. At that time, pay scale of Plumber IInd Grade was ₹ 88-118. Pay scales of Plumber Grade-I as well as Plumber Grade-II were revised from time to time. When the respondent was working as Plumber Grade-I in the pay scale of ₹ 480-760, his services were regularized but in the pay scale of ₹ 400-600 meant for the post of Plumber Grade-II and the same was accepted by the respondent under protest. Respondent submitted various representations to his superiors requesting that his pay scale be correctly fixed and his services could not be

regularized in a lower pay scale. The pay scale of Plumber Grade-I was later revised to ₹ 1200-2040 and that of Plumber Grade-II was revised from ₹ 400-600 to ₹ 950-1400. Hence, the respondent was entitled to be granted the pay scale of ₹ 1200-2040 from the date the employees of Haryana Government had been granted the said revised scale and other ancillary benefits attached to the same.

Appellant-defendant, in its written statement, averred that the services of the respondent had been regularized in the pay scale of ₹ 400-600 (later revised to ₹ 950-1400). Respondent had never made any request for grant of higher pay scale of Plumber Grade-I.

On the pleadings of the parties, following issues were framed by the Trial Court:-

- “1. Whether the plaintiff is entitled to the pay scale of Rs. 1200-2040 with consequential benefit ? OPP
2. Whether the plaintiff has no cause of action to file present suit ? OPD
3. Whether the plaintiff is estopped by his own act and conduct from filing present suit ? OPD
4. Whether the suit of plaintiff is time barred ? OPD
5. Whether the plaint has not been signed properly ? OPD
6. Whether the civil Court has got no jurisdiction to try and entertain present suit ? OPD
7. Whether the suit is barred by principle of *res judicata*? OPD
8. Relief”

Suit filed by the respondent was decreed by the Trial Court vide judgment/decreed dated 23.11.2004. Aggrieved against the said judgment and decree, appellant preferred an appeal and the same was dismissed by the First Appellate Court vide judgment/decreed dated 30.5.2005. Hence, the present appeal by appellant-defendant.

Learned counsel for the appellant has submitted that respondent had been regularized in the pay scale of ₹ 400-600 (later revised to ₹ 950-1400) without any protest. Hence, the suit filed by the respondent was liable to be dismissed.

Learned counsel for the respondent, on the other hand, has submitted that the respondent was working in a higher pay scale as a work charge employee and had been regularized in a lower pay scale. Respondent had accepted his pay scale granted to him at the time of his regularization under protest. Despite the representations submitted by the respondent, appellant had failed to grant him the due pay scale.

Admittedly, respondent was working on work charge basis as Plumber with the appellant. Exhibit P-5 is the order dated 2.1.1975 whereby respondent was appointed as a Plumber Grade-I in the pay scale of ₹ 125-175 on work charge basis. Exhibit P-1 is the order dated 28.11.1986 whereby services of the respondent were regularized. A perusal of the same reveals that respondent was brought on regular establishment in the pay scale of ₹ 400-600, though, admittedly, at the time of his regularization, respondent was in the pay scale of ₹ 480-760. The Courts below rightly held that the respondent could not have been regularized in a lower pay scale than the pay scale drawn by him as work charge

employee.

No substantial question of law arises in this case warranting interference by this Court.

Dismissed.

**(SABINA)
JUDGE**

February 03, 2016
Gurpreet