

In the High Court of Punjab and Haryana at Chandigarh

Regular Second Appeal No. 5031 of 2009
Date of Decision: 15.3.2016.

Surjit Singh

.....Appellant

Versus

Punjab State Electricity Board,
Patiala and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Charanjit Sharma, Advocate for
Mr. N.S.Sodhi, Advocate
for the appellant.

Mr. Kapil Kakkar, Advocate
for the respondents.

SABINA, J.

Appellant had filed suit for declaration challenging the order dated 18.12.2002 whereby his salary was reduced.

Case of the appellant-plaintiff, in brief, was that he had worked with the respondent board from the year 1970 till 31.10.2004. Appellant was allowed proficiency step up increment on completion of eight years of service as per rules with effect from 1.1.1987. Appellant was also allowed proficiency step up increment on completion 16 years of service with effect from 1.1.1987. The said increments were allowed to the appellant in terms of the recommendations of third Punjab Pay Commission which was accepted by the Punjab Government and adopted by the respondent board. The said recommendations were made applicable with effect from 1.1.1986. The recommendations of

fourth Punjab Pay Commission were made applicable with effect from 1.1.1996. However, the board framed its own policy to grant proficiency step up on completion of 09 years, 16 years and 23 years of service. Appellant was allowed one increment on completion of 23 years of service with effect from 1.1.1996. Pay of the appellant was fixed as ₹ 9700/- per month with effect from 2.1.1998. However, vide order dated 18.10.2002, salary of the appellant was reduced from ₹ 9700/- per month to ₹ 9400/- per month. The order had been passed without affording any opportunity of hearing to the appellant. Hence, the suit was filed.

Defendants, in their written statement, admitted the service period of the appellant. It was averred that the appellant had been allowed proficiency step up as pleaded in the plaint. However, the Chief Engineer had granted 23 years promotional scale to the appellant vide order dated 8.11.2001 but the same was to be given to the appellant only after pre-audit by the Accounts Officer. The pay of the appellant was correctly fixed as per the directions of the Accounts Officer.

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

- “1. Whether the plaintiff is entitled for declaration as prayed for? OPP*
- 2. Whether the plaintiff is entitled for pensionary benefits including pension, DCRG, leave encashment, commutation amount etc. as alleged ? OPP*
- 3. Relief.”*

Trial Court vide judgment/decreed dated 28.5.2008

dismissed the suit of the appellant. However, it was made clear that further recovery, if any, be not made from the appellant. 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 27.4.2009. Hence, the present appeal by the appellant.

The argument raised by the learned counsel for the appellant that the respondents were not within their right to re-fix the pay of the appellant as there was no misrepresentation on the part of the appellant, is without any basis. The respondents were within their right to re-fix the pay of the appellant which had been incorrectly fixed. In fact, appellant had already been granted two increments on completion of 08 years and 16 years of service whereas he was entitled to only one increment. The said mistake committed by the respondents was liable to be corrected. Since there was no misrepresentation on the part of the appellant, the Trial Court rightly held that no further recovery be effected from the appellant.

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

Dismissed.

**(SABINA)
JUDGE**

March 15, 2016
Gurpreet