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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1136 of 2013
Date of decision: January 06, 2016

Om Parkash

.......Appellant

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Anil Malik, Advocate
for the appellant.

Mr. Saurabh Mohunta, DAG Haryana.

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SABINA, J

Appellant had filed suit for declaration to the effect that he was entitled to benefits of two additional increments on completion of 8/18 years of service including the period of service rendered as Work Charge Employee w.e.f. 01.01.1990 as per policy of the State dated 07.08.1992.

The case of the appellant, in brief, was that he had joined the services of the respondent on 07.05.1971 on Work Charge basis through employment exchange. Appellant was promoted as Work Mistry and voluntarily retired on 31.12.2002. The services rendered by the appellant from 07.05.1971 to 02.07.1980 on Work Charge basis were liable to be counted for grant of additional increments as per Haryana Government policy dated 07.08.1992 w.e.f. 01.01.1990 and benefit of higher standard scale as per Haryana Government policy dated 08.02.1994 w.e.f. 01.01.1994. As per circulars dated 15.03.2002 and 10.04.2002 issued by the State, appellant was entitled for additional increments on completion of 8/18 years service, i.e. on 07.05.1979 and 05.05.1989 respectively instead of 03.07.1988 and 03.07.1998. Appellant was also entitled to other consequential benefits after the grant of two additional increments.

Respondents in their written statement admitted the fact that the appellant was appointed vide order dated 07.05.1971 as Work Mistry on Work Charge basis. Appellant was brought on regular cadre w.e.f. 03.07.1980 and at the time of his retirement, i.e. on 31.12.2002, appellant was drawing salary to the tune of ₹5,300/- and his pension and gratuity had been fixed accordingly. Initially, as per the State Policy dated 07.08.1992 and 08.02.1994, benefit of additional increments and higher standard scale was given to the employees who were working on Work Charge basis, but vide clarification dated 21.03.1994, it was held that the benefit was not admissible to Work Charge employee qua additional increments. Thereafter, vide notification dated 15.03.2002, benefit of additional increments on completion of 8/18 years service and higher standard scale after completion of 10/20 years of service, was allowed to the employees by counting their Work Charge service. Appellant had already been disbursed his pension and gratuity on 20.02.2003. Now, only fraction of payment was liable to be paid to the appellant by counting his Work Charge service, which was not admissible as per the original policy of the State. However, now the pay of the appellant had been fixed after allowing him the benefit of Work Charge service towards additional increments and Higher Standard Scale and arrears had already been paid to the appellant.

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

> "1. Whether the plaintiff is entitled of two additional increments on completion of 8/18 years of service including the period of service rendered as work Charge employee with effect from 1.1.1990 as per policy of the Government dated 7.8.1992? OPP.
>
> 2. Whether the plaintiff is entitled to get benefit of Ist and 2nd Higher Standard Scale as per scheme dated 8.2.1994 w.e.f. 1.1.1994 instead of 1.1.2000? OPP.
>
> 3. Whether the plaintiff is entitled for re-fixation of pay and pension after grant of above said benefits along with date till realisation? OPP.
>
> 4. Whether the plaintiff is entitled to the relief of mandatory injunction as prayed for?OP.

5. Whether the suit of plaintiff is not maintainable in its present form?OPP.

6. Relief.”

Trial Court vide judgment/decree dated 27.09.2010 dismissed the suit of the appellant-plaintiff. The said judgment/decree passed by the trial Court were upheld by the First Appellate Court vide judgment/decree dated 24.09.2012 in an appeal filed by the appellant-plaintiff. Hence, the present appeal by the appellant-plaintiff.

I have heard learned counsel for the parties and have gone through the record available on the file carefully.

Both the Courts below after appreciating the evidence led by the parties on record have given a finding of fact that the pay of the appellant had been re-fixed after allowing him the benefit of additional increments and higher standard scale in terms of instructions/circular dated 15.03.2002 issued by the State. The calculations made by the respondent in this regard were proved on record as Exhibit D6 and Exhibit D7. As per the said documents, it was ordered that the arrears of pay fixation be allowed to the appellant-plaintiff from 38 months back of issue of instructions dated 15.03.2002 as per F.D. Letter No.6/61/2001-3 PR (FD) dated 15.03.2002, i.e. w.e.f. 15.01.1999 only. Bill qua the arrears Exhibit D7 showed that ₹8,416/- had been paid to the appellant on account of arrears. The said payment was admitted by the appellant in his testimony when he appeared in the witness-box as PW1. There was nothing on record to establish that the calculations made in Exhibit D6 and Exhibit D7 were not correct. In these circumstances, on the basis of the evidence produced on record, the Courts below rightly held that the appellant had already been granted the benefit sought by him and consequently, the suit of the appellant-plaintiff was dismissed.

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

Dismissed.

(SABINA)
JUDGE

January 06, 2016
mahavir