

In the High Court of Punjab and Haryana at Chandigarh

RSA-2836-2013

Date of decision: 21.1.2016

KRISHNA DEVI

.....Appellant

Versus

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Amit Arora,Advocate
for the appellant

SABINA, J.

Appellant had filed suit for declaration that she was entitled to get first higher standard pay scale with effect from 1.1.1994 and second Assured Career Progression Scheme,2006 (hereinafter referred to 'ACP') with effect from 1.4.1999 and was also entitled to receive pensionary benefits accordingly. Further, the appellant had sought declaration that she was entitled to continue in service upto 31.7.2008.

Case of the appellant, in brief, was that she was allowed pay-scale of ₹775-1025 with effect from 1.1.1996 Group 'D' and she was allowed to cross efficiency bar vide order dated 12.2.1993. Appellant was entitled to receive higher standard pay-scale of ₹800-1150 with effect from 1.1.1994 and new revised pay-scale of ₹2650-4000 with effect from 1.1.1996 and second ACP scale of ₹3050-4350

with effect from 1.4.1999. Appellant had been granted first ACP scale of ₹2650-4000 with effect from 1.4.1999 instead of 1.4.1994 and second ACP scale on 8.12.2000 instead of 1.4.1999. Appellant had been placed in the grade/payscale available to Group 'D' employees i.e. Class IV employees. As per Rule 3.26(a) of Civil Services Rules Volume 1 Part 1, Class IV employee is entitled to continue to service upto 60 years, whereas, the appellant had been retired from service on 30.6.2006 on her attaining the age of 58 years,

Defendants, in their written statement, averred that the appellant had been rightly granted ACP scale and higher standard pay-scale. Appellant was working as a Dai and said post first fell in Group 'C'. As per Haryana Ayurvedic Homeopathic Service Rules 1997 (for short 'Rules') age of retirement of officials who belong to Group 'C' is 58 years. Hence, appellant had been rightly retired when she attained the age of 58 years.

On the pleadings of the parties, following issues were framed by the trial Court on 13.4.2011:-

“1. Whether the plaintiff is entitled to get 1st higher standard pay scale w.e.f. 1.1.94 and 2nd ACP scale w.e.f. 1.4.1999 and pensionary benefits revised accordingly and also to get the pay and allowances w.e.f. 1.7.2006 to 31.7.2008 for the service period cut short by the illegal retirement of the plaintiff on the grounds as alleged in the plaint?OPP

2. Whether the retirement w.e.f 30.6.2006 is illegal and not binding on the rights of the plaintiff on the grounds as alleged in

the plaint?OPP

3.Whether the plaintiff has no locus-standi nor any cause of action to file the present suit?OPD

4.Whether the Civil Court has no territorial jurisdiction to try and entertain the present suit?OPD

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

6.Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment and decree dated 13.4.2011 decreed the suit of the appellant. Aggrieved against the said judgment and decree, defendants preferred an appeal and the First Appellate Court vide judgment and decree dated 16.11.2012 allowed the appeal and, consequently, dismissed the suit of the appellant. Hence, the present appeal by the appellant-plaintiff.

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

Before the trial Court counsel for the appellant had stated that he did not press the relief regarding the first higher standard pay-scale and second ACP scale and had only pressed the relief regarding declaration that the appellant was entitled to receive pay and allowances for the period from 1.7.2006 to 31.7.2008 as she had been wrongly retired on attaining the age of 58 years instead of 60 years.

So far as the relief of declaration sought by the appellant to the effect that she was entitled to continue in service upto the age

of 60 years is concerned, the same was rightly declined by the First Appellate Court. As per the Rules, the post of Dai was included in Group `C'. Appellant who was working as Dai fell in Group `C' and was rightly retired on attaining the age of 58 years as the age of retirement of the employees falling in Group `C' was 58 years.

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

Dismissed.

**(SABINA)
JUDGE**

January 21,2016

arya