

In the High Court of Punjab and Haryana at Chandigarh

Regular Second Appeal No. 3186 of 2013
Date of Decision: 25.2.2016.

Kartar Singh Sahota (deceased) through LRsAppellant

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. G.S.Sandhu, Advocate
for the appellant.

SABINA, J.

Kartar Singh Sahota had filed suit for mandatory injunction that one annual increment be released to him and if possible two increments to bring him at par with his juniors. Appellant died during the pendency of the appeal and his legal representatives were brought on record to pursue the appeal.

Case of the plaintiff (since deceased), in brief, was that he had joined the service of the defendant department on 16.11.1965 and had retired on 30.11.2002. Plaintiff (since deceased) was promoted as a Forester with effect from 28.7.1985 whereas Gurlal Singh was promoted as such with effect from the year 1995. Plaintiff (since deceased) was promoted as a Deputy Ranger with effect from 4.7.2000 whereas Harmit Singh was promoted as Deputy Ranger with effect from 19.7.2000. Harmit Singh was appointed as a Forest Guard in July 1967 whereas plaintiff had joined as a Forest Guard with effect from 16.11.1965. Forest Guard Bhola Ram had joined the service of the defendant in the year 1970. Employees junior to the plaintiff were granted two increments whereas plaintiff was granted only one increment.

Defendants, in their written statement, denied the contentions raised by the plaintiff in the plaint. It was averred that as per the circular dated 19.12.2000, the employee was entitled for one increment on completion of eight years of service. Plaintiff had completed eight years of service on 21.7.1998 and increment was granted to him. Recovery of the amount of ₹ 9809/- was effected from the plaintiff (since deceased) as per rules.

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

- “1. Whether the plaintiff is entitled for decree of mandatory injunction, as prayed for? OPP*
- 2. Whether suit of the plaintiff is not within limitation ? OPD*
- 3. Whether plaintiff has no cause of action to file the present suit ? OPP*
- 4. Whether suit of the plaintiff is not maintainable in the present form ? OPD*
- 5. Whether plaintiff is barred by his own act and conduct from filing the present suit ? OPD*
- 6. Relief.”*

Suit filed by the plaintiff (since deceased) was dismissed by the Trial Court vide judgment/decreed dated 26.4.2012. Aggrieved against the said judgment and decree, plaintiff (since deceased) preferred an appeal and the same was dismissed by the First Appellate Court vide judgment/decreed dated 30.3.2013. Hence, the present appeal by the appellant-plaintiff (since deceased).

I have heard the learned counsel for the appellant and

have gone through the record available on the file carefully.

Admittedly, plaintiff had joined the department as Forest Guard on 16.11.1965 and had retired on 30.11.2002 while posted as Deputy Ranger. One increment was given to the plaintiff with effect from 1.5.1990 and the same was later withdrawn and deduction of ₹ 9809/- was made. Since the appellant was given the benefit of first proficiency step up with effect from 1.5.1990, he was entitled to receive the next proficiency step up with effect from 21.7.1998 whereas he was wrongly granted the next proficiency step up with effect from 21.7.1993. Consequently, recovery of the financial benefit advanced to the plaintiff was effected. At the time of promotion of the plaintiff as Deputy Range Officer, his pay was fixed as ₹ 7220/- from ₹ 7000/- with effect from 18.7.2000 by allowing him one increment. Admittedly recovery of the amount in question was effected before the plaintiff (since deceased) retired from service on 30.11.2002. However, the suit was filed by the plaintiff on 12.8.2008. Thus, the suit filed by the plaintiff was beyond the period of limitation. In the facts and circumstances of the present case, the Courts below had rightly dismissed the suit filed by the plaintiff.

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

Dismissed.

**(SABINA)
JUDGE**

February 25, 2016
Gurpreet