

111

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**RSA No.194 of 2016 (O&M)
Date of decision: January 27, 2016**

State of Haryana and others

.....Appellants

Versus

Arun Kumar Gupta

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Ravi Partap Singh, AAG Haryana.

SABINA, J

Respondent had filed suit for declaration that he was entitled for arrears of revised pay-scale and the payment of difference of leave encashment, gratuity and pension.

The case of the respondent, in brief, was that he had joined the services of the appellants as an Inspector w.e.f. 01.05.1972. Respondent retired on attaining the age of superannuation on 31.01.2006. At the time of retirement, respondent was getting salary in the pay-scale of ₹6500-10500. FIR No.23 dated 09.07.2003 was registered against the respondent under the Prevention of Corruption Act, 1988. Respondent was convicted by the trial Court and appeal against the same was pending in this Court. Respondent was placed under suspension w.e.f. 09.07.2003 and retired from service on 31.01.2006. State

had accepted the recommendations of 6th Pay Commission, whereby, pay-scale of the respondent was revised from 6500-10500 to 9300-34800 w.e.f. 01.01.2006. Respondent was granted pension w.e.f. 01.01.2006 in old pay-scale, whereas, he was entitled for grant of pension in the revised pay-scale.

Appellants-defendants in their written statement averred that the respondent had been placed under suspension vide order dated 09.07.2003 and retired on 31.01.2006. The period of suspension from 09.07.2003 to 31.01.2006 was not treated as a period spent on duty and in pursuance of directions of this Court, 100% pension, leave encashment and commutation of pension were released to the respondent. Keeping in view the conviction of the respondent in the criminal case, 10% cut on pension was imposed vide order dated 13.01.2011.

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

- “1. Whether the plaintiff is entitled to a decree of mandatory injunction as prayed for on the grounds taken in the plaint?OPP
2. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 30.01.2014 while decreeing the suit of the respondent has

held as under:-

“For the reasons discussed above, the suit of the plaintiff succeeds and is hereby decreed and a decree for mandatory injunction directing the defendants to pay in accordance with revised pay scales 100% provisional pension to the plaintiff after calculating the same till the date he was put under suspension, until conclusion of departments/judicial proceedings and issue of final order thereon, is passed in favour of the plaintiff and against the defendants. Further, the defendants are directed to pay the arrears to the plaintiff in the revised pay scale as applicable to the plaintiff and also revise the retiral benefits. The defendants are also directed to pay the difference of leave encashment which becomes due to the plaintiff on the revision of his pay scale. The defendants are also directed to deposit the amount of gratuity in the fixed deposit in a nationalized bank on yearly basis which shall be renewed form year to year until the conclusion of the department/judicial proceedings pending against the plaintiff.”

The said judgment/decrees were upheld by the First Appellate Court vide judgment/decrees dated 11.12.2014 in an appeal filed by the appellants-defendants. Hence, the present appeal by the appellants-defendants.

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

The case of the appellants was that the respondent was not entitled to revised pay-scale/pension

as per recommendations of 6th Pay Commission because he was involved in a criminal case and had remained under suspension from 09.07.2003 to 31.01.2006. The Courts below rightly held that the said argument of the appellants was without any force as once the respondent had been retired from service w.e.f. 31.01.2006, he was liable to be granted the retiral benefits as per the revised pay-scale. Respondent could not be denied the benefits available to him on account of re-fixation of his pay-scale.

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

Dismissed.

(SABINA)
JUDGE

January 27, 2016
mahavir