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

RSA No.979 of 2013

Date of decision: February 10, 2016

Om Parkash

.....Appellant

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Ram Darshan Yadav, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for declaration claiming the scale under Assured Career Progression (ACP) Scheme w.e.f. 06.06.2004.

The case of the appellant, in brief, was that he had joined the services of the defendants as Chowkidar w.e.f. 01.06.1981. Appellant was promoted as Assistant Tyre Man w.e.f. 20.09.1983 and to the post of Tyre Man w.e.f. 14.05.1993 and finally to the post of Head Tyre Man w.e.f. 05.04.2008. Appellant was liable to be granted ACP scale w.e.f. 06.06.2004. Defendant No.4, who was junior to the appellant had been granted first ACP scale.

Defendants No.1 to 3 in their written statement averred that the appellant had been promoted as Assistant Tyre Man on 21.09.1983 and as Head Tyre Man on 06.04.2008. Hence, the appellant was not entitled for the

relief claimed by him. Defendant No.4 was initially appointed as Assistant R.R. in Group 'C', whereas, appellant was appointed as Chowkidar on 01.06.1981. Defendant No.4 was promoted as Tyre Man and was given standard scale w.e.f. 01.01.1994 and revised scale w.e.f. 01.01.1996. Appellant was promoted as Assistant Tyre Man on 21.09.1983 in Group 'C' and was not entitled to get standard pay-scale vide notification dated 08.02.1994.

Defendant No.4, although, appeared before the trial Court, but was later proceeded *ex parte* as he had failed to pursue the case.

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

- “1. Whether the plaintiff is entitled for ACP 1st scale w.e.f. 06.06.2004?OPP
2. Whether the suit is not maintainable?OPD
3. Whether the plaintiff has no cause of action to file the present suit?OPD
4. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 20.04.2011 dismissed the suit of the plaintiff-appellant. The judgment/decreed passed by the trial Court were upheld by the First Appellate Court vide judgment/decreed dated 19.01.2013 in an appeal filed by the plaintiff-appellant.

Hence, the present appeal by the appellant-plaintiff.

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

Admittedly, appellant had joined the services on 01.06.1981 as Chowkidar and was promoted as Assistant Tyre Man on 21.09.1983 and as Head Tyre Man on 06.04.2008. Thus, the appellant had earned two promotions within twenty years of service and had got upgradation of scale of pay. Hence, the appellant was not entitled for ACP grade as in his case, it could not be said that he had stagnated in a post. In the facts and circumstances of the present case, the Courts below had thus, rightly dismissed the suit filed by the appellant.

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

Dismissed.

**(SABINA)
JUDGE**

February 10, 2016
mahavir