

106

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.2858 of 2015 (O&M)
Date of decision: January 29, 2016

Haryana Sae Agricultural Marketing Board,
Panchkula

.....Appellant

Versus

Jit Singh Dahiya

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Partap Singh, Advocate
for the appellant.

SABINA, J

Respondent had filed suit for declaration that he was entitled for the relief of stepping up of his pay at par with his juniors.

The case of the respondent, in brief, was that he had joined the defendant-Board as a Fee Collector on 29.07.1972. Pay-scale of Mandi Supervisor/Fee Collector was revised w.e.f. 27.03.1979 and was further, revised w.e.f. 01.04.1979. In the month of June 2008, respondent came to know that the Board had stepped up the pay of more than fifty employees at par with their juniors *suo motu* or in terms of the orders passed by the Court. Respondent inquired and found that his juniors were drawing more pay than him. The posts of Mandi Supervisor and Fee Collector were equivalent for all intents and purposes and both the

cadres had common seniority/pay-scale and their duties were also inter-changeable. Respondent had represented to the defendant for stepping up of his pay at par with his juniors but he was not granted the necessary relief.

Defendant-Board in its written statement averred that the relief claimed by the respondent was not admissible to him as in terms of Government instructions, the juniors and senior officials should belong to the same cadre and post to which they had been promoted should have been identical.

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

- “1. Whether the plaintiff is entitled for the decree of declaration to the effect that the plaintiff is entitled to get his pay stepped up at par with the pay of his juniors at ₹640/- as on 09.08.1979, at ₹660/- as on 01.04.1980 and at ₹700/- as on 01.04.1981 and so on with consequential benefits along with interest @ 24% per annum from the date of accrual till date of payment?OPP
2. Whether the suit of the plaintiff is not maintainable and the plaintiff has no locus standi to file the present suit?OPD
3. Whether the plaintiff is estopped by his own act and conduct?OPD
4. Whether no cause of action arisen in favour of the plaintiff?OPD
5. Whether the suit of the plaintiff is time barred?OPD

6. Whether the civil court has no jurisdiction under Section 42 of the Punjab Agricultural Market Act to try the matter in dispute?OPD

7. Whether plaintiff is estopped by his own act and conduct?OPD

8. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 30.07.2013 decreed the suit of the plaintiff. It was ordered that the plaintiff was entitled to get his pay stepped up at par with his junior at the rate of ₹640/- as on 09.08.1979, at the rate of ₹660/- as on 01.04.1980 and at the rate of ₹700/- as on 01.04.1981. Respondent was also held entitled to receive interest on the arrears of payment. Aggrieved against the said judgment/decreed, appellant preferred an appeal and respondent filed his cross-appeal claiming interest @ 24% per annum from the date of accrual till its realisation. The First Appellate Court vide its judgment/decreed dated 10.09.2014 dismissed the appeal filed by the plaintiff as well as the cross-appeal filed by the respondent. Hence, the present appeal by the appellant-defendant-Board.

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

The case of the respondent was that his pay was liable to be stepped up at par with his juniors. Reliance was

placed by the appellant on Exhibit P-4, Exhibit P9, Exhibit P12 and Exhibit P14, whereby, pay of the juniors had been stepped up. DW1 Rajpal Singh in his cross-examination admitted that Mahinder Singh, Zile Singh, Sajjan Singh and Raghubir Prasad were junior to the respondent and they belonged to the same cadre and scale. He further stated that as per seniority-list dated 01.01.1976, respondent was senior to the said employees. He admitted the genuineness of Exhibit P-4, Exhibit P9, Exhibit P12 and Exhibit P14, whereby, pay of the juniors was stepped up. He also admitted that for stepping up of pay, the only criteria required was seniority. The said witness also admitted that vide Exhibit P18, pay of forty seven employees had been stepped up either *suo motu* by the Board or in terms of the Courts orders. He also admitted that vide Exhibit P31, pay of Nikka Ram was stepped up at par with pay of Fakir Chand Gupta in terms of the orders passed by the Hon'ble Supreme Court. He further admitted that vide Exhibit P31, pay of Pahal Singh was stepped at par with Zile Sing by the Marketing Board. He also admitted that Mandi Supervisor and Fee Collector belong to the same cadre and they had a joint seniority-list and they had the same pay-scale.

Thus, in the present case, respondent had been successful in establishing that the pay of his juniors had been stepped up, whereas, he had not been granted the

same benefit. Since the juniors to the respondent were drawing more salary, the Courts below rightly ordered that the pay of the respondent was also liable to be stepped up.

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

Dismissed.

**(SABINA)
JUDGE**

January 29, 2016
mahavir