

105

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

RSA No.3127 of 2015 (O&M)

Date of decision: February 15, 2016

Punjab State Electricity Board and others

.....Appellants

Versus

Rakesh Kumar Trehan

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Roshan Lal Sharma, Advocate
for the appellants.

SABINA, J

Respondent had filed suit for declaration that he was entitled to receive the promotional scale on completion of 23 years of service.

The case of the respondent, in brief, was that he has joined the service of the petitioner-Board on 14.05.1976. Petitioner was entitled for two promotional scale increments on completion of 23 years of service. Defendant No.2 had passed an order dated 06.05.2002, whereby, two promotional increments were granted to the petitioner. However, despite the passing of the said order, benefit of two promotional increments had not been released to the respondent.

Appellants-defendants in their written statement admitted the passing of the order dated 06.05.2002. It was further averred that the accounts officer had intimated that

respondent did not fulfill the conditions mentioned in Circular No.20/2000 as he did not have avenue of three promotions.

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

- “1. Whether the plaintiff is entitled to promotional scale and the increments as claimed?OPP
2. Whether the suit is false and frivolous as alleged?OPD
3. Whether the plaintiff has suppressed the material facts from the court as alleged?OPD
4. Whether the plaintiff is estopped by his own act and conduct from filing the suit?OPD
5. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 06.08.2014 dismissed the suit of the plaintiff-respondent. In an appeal filed by the respondent, the First Appellate Court vide judgment/decreed dated 02.01.2015 decreed the suit of the plaintiff-respondent. Hence, the present appeal by the appellants-defendants.

Learned counsel for the appellants has submitted that, although, the respondent was entitled to receive the benefit of two promotional increments on completion of 23 years of service, but the arrears could not be allowed beyond the period of three years.

In the present case, admittedly, the benefit claimed by the respondent was granted to him by the appellants-defendants vide order dated 06.05.2002. However, the matter was referred to the accounts officer vide Exhibit D3 and the accounts officer observed that respondent had not passed the departmental examination and was not having the avenue of three promotions. Respondent was, however, not informed qua the letter Exhibit D3. During the pendency of the suit, appellants-defendants passed the order dated 24.12.2010 declining the benefit of two increments to the respondent on his completion of 23 years of service. Since the order dated 24.12.2010 had been passed by the appellants-defendants during the pendency of the suit, the learned First Appellate Court rightly held that the arrears admissible to the respondent could not be restricted to three years as the respondent had been diligently pursuing the case.

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

Dismissed.

**(SABINA)
JUDGE**

February 15, 2016
mahavir