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

**RSA No.4168 of 2015 (O&M)
Date of decision: January 19, 2016**

Punjab State and others

.....Appellants

Versus

Mohinder Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. K.D.S. Sidhu, Addl. AG Punjab.

SABINA, J

Respondent had filed suit for declaration that he was entitled to pay-scale of ₹1350-2400 w.e.f. 28.02.1990 till the date of his superannuation.

The case of the respondent, in brief, was that he had joined the Department of Industries of Commerce, Punjab on 10.01.1977 as Technician and was later adjusted against vacant post of Junior Technical Assistant vide order dated 25.01.1990. Respondent retired from the said post on attaining the age of superannuation on 30.04.2009. Although, the scale of Junior Technical Assistant was ₹1350-2400 but the respondent was paid salary in the pay-scale of ₹1200-2100 w.e.f. 28.02.1990. Hence, the suit was filed by the respondent claiming the arrears of pay.

Defendants in their separate written statements averred that the respondent had been appointed as Skilled Operator on 10.01.1977 on ad hoc basis and was later

regularised w.e.f. 01.10.1980. Respondent was declared surplus and was adjusted against post of Skilled Operator in the pay-scale of ₹1200-2100 in Industrial Development-cum-Quality Marketing Centre (Engineering), Moga in his own pay-scale on the basis of his option dated 25.01.1990. It was ordered that the pay of the respondent be drawn against vacant post of Junior Technical Assistant. Respondent never worked as Junior Technical Assistant and retired as Skilled Operator on attaining the age of superannuation on 30.04.2009.

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

- “1. Whether the plaintiff is entitled for declaration as prayed for?OPP
2. Whether plaintiff is entitled for mandatory injunction as prayed for?OPP
3. Whether present suit is not maintainable?OPD
4. Whether no cause of action arose in favour of plaintiff?OPD
5. Whether proper court fee has not been paid?OPD
6. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 31.05.2013 dismissed the suit of the respondent-plaintiff. In an appeal filed by the respondent-plaintiff against the said judgment/decreed passed by the trial Court, the First Appellate Court vide judgment/decreed dated 25.11.2013 decreed the

suit. 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.

In the present case, admittedly, respondent had joined the Department of Industries and Commerce, Punjab on 10.01.1977. The post of respondent was declared surplus and he was adjusted against the post of Junior Technical Assistant vide order dated 25.01.1990. Respondent retired on attaining the age of superannuation on 30.04.2009. Admittedly, respondent was adjusted against the post of Junior Technical Assistant w.e.f. 28.02.1990 and continued on the said post till the date of his retirement, i.e. 30.04.2009 and his salary was also drawn against the said post. In these circumstances, the learned First Appellate Court rightly held that the respondent was liable to be paid the salary as admissible to Junior Technical Assistant. Hence, the respondent was liable to be paid the salary in the scale of ₹1350-2400 admissible to Junior Technical Assistant instead of salary in the grade of ₹1200-2100.

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

Dismissed.

**(SABINA)
JUDGE**

January 19, 2016
mahavir