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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2119 of 2014

Date of decision: January 28, 2016

Jai Parkash Jaglan

.....Appellant

Versus

Haryana State Agricultural Marketing Board

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. N.C. Kinra, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for declaration that he was entitled for arrears of pay and allowances on re-fixation of his pay on account of his retrospective promotion as Auction Recorder w.e.f. 02.09.1986 to 13.12.1999 and as Mandi Supervisor w.e.f. 14.12.1999 to 11.03.2007 along with interest.

The case of the appellant, in brief, was that he was working as Mandi Supervisor in Market Committee Taroari. Appellant was granted retrospective promotion as Auction Recorder w.e.f. 02.09.1986 at par with his juniors vide order dated 22.03.2006. It was mentioned in the said order that the appellant would be entitled for notional benefits and arrears of pay w.e.f. 24.05.2003, i.e. from the date of passing of type test. Thereafter, the arrears of pay and allowances had been released to the appellant from 15.03.2006 onwards vide order dated 04.08.2006. Appellant was allowed arrears of pay for the post of Auction Recorder from 14.12.1999 to 11.03.2007 vide order dated 27.02.2008. However, the appellant was deprived of the

arrears of pay and allowances for the period from 02.09.1986 to 13.12.1999. Appellant further claimed promotion as Mandi Supervisor at par with his junior Krishan Kumar w.e.f. 14.12.1999. The said request of the appellant was accepted and he was granted retrospective promotion as Mandi Supervisor w.e.f. 14.12.1999 vide order dated 09.03.2007. However, arrears of pay and allowances were denied to the appellant. Appellant filed an appeal before the Financial Commissioner and Principal Secretary to Government of Haryana, Agriculture Department, Chandigarh and the case of the appellant was recommended to the defendant with a direction to pass a speaking order with regard to pay and allowances liable to be paid to the appellant. Thereafter, the pay of the appellant was fixed vide order dated 27.02.2008 and the appellant was allowed arrears of pay and allowances for the post of Auction Recorder w.e.f. 14.12.1999 to 11.03.2007 and for the post of Mandi Supervisor from 12.03.2007 onwards.

Defendants in its written statement admitted the passing of the orders qua grant of retrospective promotion to the appellant as Auction Recorder and Mandi Supervisor. It was averred that the appellant had not been allowed arrears of pay and allowances for the period in question as he had not worked on the post of Auction Recorder or Mandi Supervisor for the relevant period. Order dated 27.02.2008 was passed in terms of the order passed by the Chief Administrator.

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

- “1. Whether the plaintiff is entitled for decree of declaration as prayed for?OPP
2. Whether this Court has no jurisdiction to entertain the present suit?OPD
3. Whether the plaintiff is entitled to all consequential benefits, except arrears from the actual date of promotion to the post of Auction Recorder to onwards as per Government instruction?OPD
4. Whether the suit is not maintainable in the present form?OPD
5. Whether the suit is bad for mis-joinder of necessary parties and non-joinder of necessary parties?OPD
6. Whether the plaintiff is entitled for notional benefits of arrears of pay payable with effect from 20.05.2003 i.e. from the date of passing of type test?OPD
7. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 13.05.2011 decreed the suit of the appellant. The relief clause of the said judgment/decreed dated 13.05.2011 reads as under:-

“Keeping in view the findings on the aforesaid issues, the suit of plaintiff succeeds and the same is hereby decreed with costs. It is declared that the plaintiff is entitled to arrears of pay and allowances on re-fixation of his pay on account of his retrospective promotion as Auction Recorder w.e.f 02.09.1986 to 13.12.1999 and as Mandi Supervisor w.e.f. 24.12.1999 to 11.03.2007 along with interest at the rate of 12% from the due date till the date of payment. Decree sheet be drawn accordingly and file be consigned to records after due compliance.”

Aggrieved against the said judgment/decreed, appellant

as well as the respondent preferred appeals. The First Appellate Court vide judgment/decreed dated 08.11.2013 partly allowed the appeal filed by the respondent and dismissed the appeal filed by the appellant. Hence, the present appeal by the appellant-plaintiff.

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

Appellant is aggrieved by the judgment/decreed passed by the First Appellate Court, whereby, he was declined the relief of arrears of pay and allowances for the period w.e.f. 02.09.1986 to 13.12.1999 relating to his promotion as Auction Recorder. The learned First Appellate Court has observed that the order Exhibit P-2, whereby, the arrears for the said period were declined to the appellant was passed on 22.03.2006. However, the suit was filed on 18.05.2009, i.e. after a period of more than three years. Since the relief sought by the appellant qua arrears of pay and allowances from 02.09.1986 to 13.12.1999 was time barred, the learned First Appellate Court rightly held that the appellant could not be granted the said relief as he had failed to file the suit within the period of limitation from the date of passing of the order dated 22.03.2006.

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

Dismissed.

**(SABINA)
JUDGE**

January 28, 2016
mahavir