

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

RSA-3502-2014

Date of decision: January 07, 2016

SOHAN SINGH

.....Petitioner

Versus

SECRETARY PUNJAB IRRIGATION DEPARTMENT & ORS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

**Present: MR. SHASHI KUMAR RATTAN, Advocate
for the appellant**

SABINA, J

Appellant had filed suit for declaration to the effect that he was entitled for special increments as allowed to him by the defendants with effect from 1.1.1995, 1.1.1996 and 1.1.1997 and further mandatory injunction was sought directing the defendants to release the said benefit to the appellant which had been withdrawn.

The case of the appellant-plaintiff, in brief, was that he was working as Driver in Mukerian Hydel Project and was transferred to RSD Shahpurkandi with effect from 31.7.1995. Appellant had worked in the office of defendant No.3 and was a permanent employee of Punjab State Electricity Board ('PSEB' for short). Appellant was an ex-serviceman and was granted three increments with effect from 1.1.1995 to 1.1.1997 by defendant No.2 and the said

increments were later approved by defendant No.1. However, the defendants had withdrawn the said increments without assigning any reason nor had given any notice to the appellant.

Respondents No. 1 to 3, in their written statement, denied the contents of the plaint.

Respondents No. 4 and 5, in their written statement, took up preliminary objection that the suit filed by the appellant was not maintainable. On merits, it was averred that the appellant was transferred as work charge driver from Mukerian Hydel Project to RSD Shahpurkandi. Appellant was not a permanent employee of PSEB. Although, special increments were granted to the appellant and he continued to draw the said benefit upto 30.4.1999 but the said benefit was withdrawn as there was no provision in the standing orders of PSEB for grant of special increments to work charge employees.

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

- “1.Whether plaintiff is entitled for declaration as prayed for?OPP
- 2.Whether this Court has got no jurisdiction to try and entertain the present suit?OPD
- 3.Whether the plaintiff has no locus standi and cause of action to file the present suit?OPD
- 4.Whether suit of the plaintiff is not maintainable in the present form?OPD
- 5.Whether suit is liable to be dismissed with special costs?OPD

6.Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment and decree dated 4.3.2010 dismissed the suit of the plaintiff. The said judgment and decree were upheld in appeal filed by the appellant by the First Appellate Court vide judgment and decree dated 15.1.2014. Hence, the present appeal by the plaintiff.

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

Both the Courts below, after appreciating the evidence on record, have given a finding of fact that the appellant was transferred as work charge driver from Mukerian Hydel Project to Shahpurkandi. Thus, the appellant was not a permanent employee of PSEB. Admittedly, appellant was granted special increments with effect from 1.1.1995 to 1.1.1997 and he continued drawing the said benefits upto 30.4.1999. The special increments granted to the appellant were withdrawn. Since, there was no provision in the standing orders of PSEB for grant of special increments to work charge ex-serviceman, the special increments which were, inadvertently, allowed to the appellant were withdrawn. Moreover, the appellant had earlier filed suit claiming the same relief and the same was withdrawn by the appellant on 14.12.2004. However, at the time of withdrawal of the said suit, appellant had not sought permission to file a fresh suit on the same cause of action.

In view of the above factual background, the Courts below

rightly ordered the dismissal of the suit filed by the appellant.

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

Dismissed.

**(Sabina)
Judge**

January 07,2016

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