

RSA-4399-2014

[1]

In the High Court of Punjab and Haryana at Chandigarh.

RSA-4399-2014

Date of Decision:28.03.2016

Bhagwant Rai

....Appellant

Versus

Punjab State Power Corporation Limited, Patiala and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.S. Bajaj, Advocate,
for the appellant.

SABINA, J.

Appellant had filed suit for declaration that he was entitled for pay scale of Rs.1640-2925 w.e.f. 01.01.1986 and grade of Rs.1800-3200 w.e.f. 08.01.1990 along with consequential benefits. Appellant further prayed for declaration to the effect that circular No.71/91 was a nullity.

Case of the appellant, in brief, was that he had joined the respondent-Board as Lower Division Clerk ('LDC' for short) on 07.01.1974 and was promoted as Upper Division Clerk ('UDC' for short) on 05.01.1984. Seniority number of the appellant was 1641. Appellant was drawing the salary in the pay scale of 510-800 as UDC w.e.f. 31.12.1985, whereas he was in the pay scale of Rs. 400-660 as LDC. The pay

RSA-4399-2014

[2]

scales were revised w.e.f. 01.01.1986. Respondent-Board had issued financial circular No.75/91 dated 27.11.1991. Vide the said circular LDCs were held entitled to receive pay scale of Rs.1500-2640 after completing 10 years of service. Defendant No.2-Nirmal Singh had joined the respondent-Board on 27.01.1975 and his seniority number was 2505. Defendant No.2 was getting higher pay scale than the appellant. The financial circular No.71/91 dated 25.11.1991 was issued in an arbitrary manner, whereby the appellant was granted lesser pay scale than his junior. Appellant made representations to the Chief Auditor of respondent-Board but no action was taken on the same. Hence, the suit was filed by the appellant.

Respondent-Board, in its written statement, averred that the suit filed by the appellant was time barred. It was further averred that Board had issued financial circular No.75/91 dated 27.11.1991. As per the same pay scale of Rs.950-1800, 1200-2100 and 1500-2640 were to be granted to LDCs. The LDCs were bifurcated in three categories while allowing the said scale in ratio of 20:40:40. Appellant was drawing pay scale of Rs.1500-2640 as LDC. Case of the appellant was different than the case of defendant No.2. LDCs who had been promoted as UDCs before 01.01.1986 were not entitled to get the benefit of circular No.75/91. The Board

RSA-4399-2014

[3]

had given right of option to the UDCs vide its financial circular No.48/92 that in case they wanted to take benefit of 16 years time bound promotion scale by treating their induction post as LDC then they could opt for the same within 30 days from the date of issuance of Circular otherwise they would be allowed benefit of 9/16 years time bound promotional scale in their own cadre of UDCs. Appellant had opted for 16 years time bound promotional scale on completion of 16 years of service on the post of LDC and he was allowed the said scale w.e.f. 08.01.1990 vide order dated 31.08.1998. Appellant was further granted 23 years advance promotional increment on completion of 23 years of service on the post of LDC and had been promoted as Circle Assistant vide order dated 03.04.2002. Thus, benefits had been allowed to the appellant by treating his induction post as LDC (as per his option).

Defendant No.2 proceeded ex parte.

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

- “1. *Whether the plaintiff is entitled to the relief of declaration as prayed for? OPP*
2. *Whether the suit of the plaintiff is not maintainable? OPD*
3. *Whether the suit is time barred? OPD*
4. *Whether Civil Court has no jurisdiction to try this case? OPD*

RSA-4399-2014

[4]

5 *Relief.”*

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 20.03.2012 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/decreed dated 29.03.2014. 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.

Trial Court while dealing with issue No.3 has held that the appellant had completed 16 years of regular service on 07.01.1990 and was allowed the scale of Rs.1640-2925 and appellant was further granted the benefit of completion of 23 years of service by treating his induction post as LDC. However, the suit had been filed by the appellant in the year 2004. Appellant had himself exercised the option that his induction post be treated as LDC.

Thus, although, the cause of action had arisen to the appellant in the year 1990 when he had got the promotional scale on completion of 16 years of service but he had filed the suit in the year 2004. The suit filed by the appellant was clearly time barred. Moreover, the appellant had been granted service benefits as per the option exercised by

RSA-4399-2014

[5]

him.

In the facts and circumstances of the present case, Courts below had, thus, rightly ordered the dismissal of the suit of the appellant.

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

Dismissed.

March 28, 2016
kapil

(SABINA)
JUDGE