

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision : 02.12.2017

1. RSA No.3348 of 2000 (O&M)

Ch. Charan Singh Haryana Agricultural University,
Hisar and others

..... Appellants

Versus

Sant Lal and others

..... Respondents

2. RSA No.2655 of 2000 (O&M)

Ch. Charan Singh Haryana Agricultural University,
Hisar and others

..... Appellants

Versus

Ram Kishan and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. R.K.Malik, Senior Advocate with
Mr. Bhupinder Malik, Advocate
for the appellants.

Mr. Jatinder Sharma, Advocate
for the respondents.

AJAY TEWARI, J. (Oral)

These two appeals have been filed against the concurrent judgments of the Courts below decreeing the various suit filed by the respondents.

The claim of the respondents was based on the doctrine of

equal pay for equal work. They were not fully qualified for the job of

Electrician but had relied upon the fact that some other persons who are also similarly not qualified had been given the benefit. Both the Courts below decreed the suit and that is how the University is in appeal.

Learned senior counsel appearing for the University states that in this case the respondents have already been given undue benefit. A special post of Electrician Grade-II was created for them only to accommodate them and because they were not qualified for the post of Electrician and therefore, they now can not claim the pay scale of the post of Electrician.

Learned counsel for the respondents points out that this fact was never pleaded in the written statement. Moreover, he has relied upon a decision of this court passed in RSA No.4000 of 2009 titled as **Chaudhary Charan Singh Haryana Agricultural University, Hissar and others Vs. Ramesh Kumar and others** (also appellant in the present case) had been decided on 06.11.2009 wherein persons who were similarly situated as the respondents and infact had been appointed after the respondents and were thus junior to them had also filed the similar suit which had been similarly decreed by the Courts below and by this judgment the appeal of the same appellant had been dismissed. He further points out that the decision of this Court was challenged by the University in the Supreme Court but that SLP was also dismissed.

Having gone through that judgment I found that in that case the arrears were restricted to a period of three years prior to the filing of this suit but in the present cases full arrears have been granted.

Learned counsel for the respondents has very fairly accepted this modification.

Learned senior counsel for the appellants has further argued that in *State of Haryana and another etc. Vs. Mohinder Singh and others etc., 2017 (4) SCC 587* the Supreme Court has limited arrears in a similar case from the date of the judgment.

I find that that judgment is not strictly applicable. In *State of Haryana and another's case (supra)* the Supreme Court held as follows :-

“Having perused the determination rendered by this Court in the [State of Karnataka vs. Umadevi](#), 2006(2) S.C.T. 462: (2006) 4 SCC 1, we are satisfied, that in terms of the above judgment, arrears should have been held, to be payable to the respondents, only with effect from the date when the impugned judgment was rendered by the Division Bench of the High Court, i.e., with effect from 1.4.2013. We are indeed bound to follow the aforesaid declared position, by the Constitution Bench of this Court. More so because, the legal position on the subject was uncertain, in view of the conflicting position reflected on the subject, by different judgments of the High Court. The correct legal position was declared for the first time, through the impugned judgment, which also held the statutory rules framed under [Article 309](#) of the Constitution as unconstitutional, to the extent of payment of wages. It is on the above and allied consideration, that we feel, that it would not be appropriate to extend the benefits of arrears to the respondents, keeping in view the period of limitation, for payment of monetary claims. In view of the above, we hereby dismiss all the civil appeals on merits. Insofar as the payment of arrears is concerned, the impugned order is modified, and a direction is hereby issued, that arrears will be paid to the

respondents with effect from the date of the impugned judgment, namely, with effect from 1.4.2013.”

Thus the Supreme Court had noticed that in that case the position of law was in a flux and had been clarified by the Supreme Court itself only then but in the present case there is no such situation since a similar case of the University has been dismissed as far back in the year 2009. I am further informed that no stay was granted by this Court and, therefore, the respondents have been now enjoying these pay scales under the orders of the Executing Court for the last 17 years.

Resultantly, both the appeals are dismissed. However, the arrears which have to be paid to the respondents would be restricted for a period of three years from the date of filing of the suit.

Since the main cases have been decided, the pending civil miscellaneous applications, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

02.12.2017
Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No