

Sr.No.241

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

LPA-873-2016(O&M)

Date of Decision: 28.11.2017

Haryana State Agricultural Marketing Board and anotherAppellants

VS.

Karam Chand Gupta

...Respondent

**CORAM HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI**

Present:- Mr.Padam, Kant Dwivedi, Advocate for the appellants.
Mr. Naveen Daryal, Advocate for respondent.

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MAHESH GROVER, J (ORAL)

This appeal is directed against the judgment dated 11.02.2016
of the learned Single Judge.

The respondent – writ petitioner impugns a notice dated
09.05.2014 seeking to withdraw the benefit of 2nd Higher Standard Scale and
3rd ACP Scales granted to him in the years 1994 and 2006 respectively. The
reason to do so as it turned out to be is discovery of an undertaking given by
the respondent to the appellant to forego promotion which would have dis-
entitled him to such benefits. The learned Single Judge took the view that
the respondent having retired from services in the year 2008 would disentitle
appellants to withdraw any benefit granted to him and thus, interfered with
the show cause notice to quash it.

Before us, learned counsel for the appellant contends that since
it was only a show cause notice, the writ Court ought not to have interfered
with it, rather should have waited for an order to come on record. That
apart, it has been contended that in view of the undertaking furnished by the

LPA-873-2016(O&M) -2-

respondent, he would not be entitled to any benefit in terms of the clarifications issued by the appellant.

On due consideration of the matter, we are of the opinion that the appeal deserves to be dismissed considering the fact that the benefits were granted to the respondent without any misrepresentation on his part and in view of the settled proposition of law as enumerated by the Hon'ble Supreme Court as under:-

“ If an employee is not at fault and a benefit is awarded to him will not be permissible for the employer to withdraw such a benefit particularly when the person has retired and his status in the service is such that would acutely inconvenience him if recovery is resorted. ”

The respondent fits in this category as he retired as a Mandi Supervisor after having joined the service as a Clerk. Besides remitting the matter back to await an order is likely to force the respondent into throes of litigation which may not be feasible considering the respondent's superannuation in the year 2008.

Consequently, for the aforementioned reasons, we do not find any reason to interfere with the order dated 11.02.2016 of learned Single Judge and the appeal is,therefore, dismissed.

(MAHESH GROVER)
JUDGE

(RAJ SHEKHAR ATTRI)
JUDGE

28.11.2017
mamta

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No