

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 214

Regular Second Appeal No.1038 of 2013(O & M)
Date of Decision: September 14, 2017

Raj Singh

..... APPELLANT

VERSUS

Punjab State Electricity Board (now called as Punjab State Power Corporation Ltd.) & others

..... RESPONDENTS

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

PRESENT: - Mr. D.S. Nigha, Advocate, for Mr. Puneet Singla,
Advocate, for the appellant.

Mr. R.L. Sharma, Advocate, for the respondents.

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Jaspal Singh, J

CM No.2762-C of 2013

For reasons mentioned in the application, delay of 187 days
in filing the instant appeal is condoned.

Application is allowed.

RSA No.1038 of 2013

Brief facts of the case are that appellant – Raj Singh
instituted a civil suit seeking declaration to the effect that he is entitled to
benefit of 23 years promotional scale w.e.f. May 04, 2002 and 16 years pay
scale w.e.f. May 04, 1995; and is entitled to draw pay & allowances more
than or at-least equal to employees junior to him and further, entitled to
arrears of pay & allowances on fixation of pay alongwith interest @ 18% per

annum from the date when the same became due till the date of its grant and release to him.

It is the case of the appellant – plaintiff that he was employed as Line Man with defendants – respondents. He was initially posted as Assistant Line Man vide order No.79 dated March 31, 1979 and joined as such on May 04, 1979. The plaintiff alleged that he is entitled to protection and benefits of provisions rules & regulations application to erstwhile Punjab State Electricity Board (now, PSPCL) as he was a regular and confirmed employee of defendants. Every employee of PSPCL, including Assistant Line Man and Line Man, is entitled to promotional pay scale on completion of 9 years' service, second promotional pay scale on completion of 16 years' service and third promotion pay scale on completion of 23 years of service. Plaintiff joined as ALM on May 04, 1979 and completed 16 years' service on May 03, 1995 and 23 years' service on May 03, 2002. Thus, he is entitled to 16 years and 23 years promotional scales. Though, 16 years' service promotional pay scale was granted to him w.e.f. May 04, 1996 whereas that of 23 years is being put off by the defendants on one pretext or the other. It had also been alleged by the plaintiff in the suit that he was entitled to the pay scale (₹ 90-140) of the post of ALM w.e.f. May 04, 1979, whereas his pay was fixed at ₹ 87/- per month i.e. below the minimum basic pay of ₹ 90/- per month. Even, employees junior to the plaintiff are getting more pay than him which is against law, rules, instructions and principles of natural justice.

Defendants filed written statement wherein it was admitted that plaintiff was employed as Line Man. He was previously posted upon the provisional basis and his pay was fixed one stage below i.e. at the rate of

as ALM on May 04, 1979 and became regular after completion of one year of service on May 04, 1980. As such, he was granted the benefit of 16 years' promotion pay scale on May 05, 1996 as the service for granting this benefit was to be counted from the date he became regular ALM, as per Board's circular 17/90 issued vide office order No.197/FIN/PRC-1988 dated April 23, 1990. Defendants stated in their written statement that promotional pay scale on completion of 23 years' service is under process.

Plaintiff filed replication to the written statement thereby reiterating the plaint. From the pleadings of parties, issues were framed. Parties led evidence in order to substantiate their respective cases.

After hearing learned counsel for the parties and appreciation of evidence, the trial court vide judgment & decree dated November 03, 2011, partly decreed the suit of the plaintiff to the effect that he is entitled for the grant of promotional pay scale w.e.f. May 04, 2003 after completion of 23 years' service and that, as the defendants have withheld the same without any reason, so the plaintiff is entitled for the interest of the same at the rate of 9% per annum from May 04, 2003 when the same has been accrued till the filing of present suit and he is further entitled to the interest at the rate of 6% per annum from the date of filing of the suit till the actual realization of the same.

Dis-satisfied with the aforesaid judgment & decree passed by the trial court, with the quantum of interest, plaintiff filed an appeal which was dismissed by the lower appellate court vide judgment & decree dated May 08, 2012 holding that rate of interest @ 18% per annum is an excessive rate of interest. The plaintiff cannot be made to use the litigation for claiming exorbitant interest of 18% per annum which is even otherwise

much more than the rate of fixed deposit prevalent in the market taken as an average.

Now, plaintiff – appellant has approached this Court feeling aggrieved by the judgments & decrees rendered by both the courts below, whereby he has been denied the interest @ 18% per annum.

Heard.

The only question for determination in this appeal is whether plaintiff is entitled for grant of interest @ 18% per annum on the withheld benefit of promotional pay scale of 23 years' service?

Undoubtedly, the trial court has rightly partly decreed the suit of plaintiff after recording concurrent findings in its judgment that he is entitled for grant of promotional scale w.e.f. May 04, 2003 after completion of 23 years' service and further that, the said benefit was illegally and unlawfully withheld by the defendants - respondents. Therefore, he was held entitled for interest @ 9% per annum from May 04, 2003 till filing of suit and future interest @ 6% per annum from the date of filing the suit till actual realization of same.

A close scrutiny of the judgment and decree of lower appellate court reveals that rate of interest awarded by the courts below is still much more than the prevailing rate allowed by the nationalized banks for fixed deposits. Moreover, this Court, in a number of judgments, has allowed the rate of interest @ 9% per annum following the dictum of judgments rendered by the Full Bench in ***A.S. Randhawa vs. State of Punjab and others, 1997(3) SCT 468***. Grant of interest @ 9% per annum till the institution of the suit and thereafter @ 6% P.A., cannot, in any way, be termed to be at the lower side, rather the same is quite reasonable. The lower

litigation for claiming exorbitant interest of 18% per annum which is even otherwise much more than the rate of fixed deposits in nationalized banks in the case of *A.S. Randhawa (supra)*. Thus, this Court does not find any illegality in impugned judgments, rather is of the considered view that interest allowed by the courts below is absolutely in consonance with the legal proposition and is legally & factually justified. As such, no interference by this Court is justified.

In the light of what has been discussed above, this court does not find any infirmity the judgments & decrees rendered by the courts below and the same are affirmed.

Accordingly, instant appeal stands dismissed with no costs.

September 14, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No