

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

**ESA-3-2015 (O&M)
Date of decision : 2.2.2018**

Avtar Krishan SharmaAppellant.
Versus
State of Haryana Respondent.
CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sushil Bhardwaj, Advocate for the appellant.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Impugned in the present appeal is the order dated 10.5.2013, passed by learned Civil Judge (Junior Division), Chandigarh vide which execution application of the appellant/decreed holder was held to be fully satisfied and was dismissed accordingly. Further, impugned is the order dated 5.9.2014 passed by learned Additional District Judge, Chandigarh vide which the findings of the learned trial Court were upheld.

It comes out that judgment and decree dated 5.12.2005 (Annexure P-1) was passed by learned Civil Judge (Junior Division), Chandigarh in favour of plaintiff-appellant declaring that he is entitled for promotion to the post of Assistant Registrar Cooperative Societies with all consequential benefits w.e.f 16.12.1980 on which date, the Inspectors Cooperative Societies who were lower in Rank and status than that of plaintiff, were promoted as Assistant Registrar. Plaintiff was also held entitled to interest @ 9% per annum on all monetary

benefits from the date it became due till the date of decree and at the rate of 6% per annum from the date of decree till its realization was allowed. In terms of the said decree, Haryana Government Cooperation Department passed the order on 23.4.2010 endorsed on 30.4.2010 (Annexure A-3). However, when the pay fixation order dated 27.6.2010 endorsed on 19.7.2010 (Annexure A-4) was passed, the order dated 20.8.1992, stopping two annual grade increments with cumulative effect, was also taken into consideration and pay was accordingly fixed.

Learned counsel for the appellant states that once the appellant has been allowed the pay fixation with effect from 16.12.1980, the said order dated 20.8.1992 has become inoperative and it should be ignored.

I am of the view that decree was only to grant him promotion w.e.f. 16.12.1980 and arrears accordingly. The said order dated 20.8.1992, stopping of two annual grade increments with cumulative effect was never challenged; discussed or commented upon nor it was ordered that the said order was not to be considered while fixing the pay. Therefore, while fixing the pay w.e.f. 16.12.1980, the department can always consider the punishment order passed against the appellant to fix his pay. The other arrears in terms of decree has already been released. Therefore, I do not find any illegality or irregularity in the order passed by two Courts below.

Dismissed.

(KULDIP SINGH)
JUDGE

2.2.2018
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Whether speaking / reasoned
Whether Reportable:

Yes
No