

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.1247 of 2016(O&M)
Date of Decision: September 25, 2018

Chaman Lal Garcha

.....Appellant

versus

Punjab State Industrial Development Corporation LimitedRespondent

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.Sanjay Kaushal, Senior Advocate with
Mr.Lalit Rishi, Advocate, for the appellant.
Mr.V.M.Gupta, Advocate, for the respondent.

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Surya Kant, J. (Oral)

The appellant assails the order dated 18.05.2016 vide which learned Single Judge allowed his writ petition in part to the extent that the order to recover excess pay and allowances has been set-aside but the withdrawal of benefit of Assured Career Progression Scheme (for short, ACP Scheme) granted to him in the year 2006 has been upheld. Similarly, claim of the appellant to award him interest on the delayed payments of retiral benefits does not appear to have been expressly dealt with.

The appellant joined the respondent-Corporation as an Assistant Accountant on 25.01.1977. He was promoted as AGM (Accounts) w.e.f. 09.10.1992. The appellant was again promoted as DGM w.e.f. 09.10.1997.

The appellant was granted the benefit of ACP Scheme and he got second ACP w.e.f. 09.10.2006. While the appellant was drawing his pay and allowances as per the second ACP, the Corporation is said to have detected the mistake in his pay fixation and 'rectified' it in the year 2011. It

resulted into reduction in pay and allowances of the appellant. It further appears that no show-cause notice or opportunity of hearing was granted to the appellant before the alleged mistake was rectified. Since the action visited the appellant with civil consequences, there can indeed be no quarrel that he ought to have been heard especially when the appellant is a person having expertise in accounts.

Be that as it may, the learned Single Judge has held that the second ACP was rightly withdrawn. However, recovery of excess pay and allowances has been disapproved as the appellant by that time had reached the stage of retirement on superannuation.

The Corporation was surely obligated to call upon the appellant to explain his entitlement to 2nd ACP; consider his explanation and thereafter decide the matter objectively and in dispassionate manner as to whether or not he was entitled to the grant of second ACP. The grant of 2nd ACP invariably depends upon the interpretation of the Scheme, date of last promotion earned and 'satisfactory service record' of the employee and several other factors. In the absence of such an exercise having been undertaken by the authorities, it was not necessary for the learned Single Judge to visit the gray this area and opine on it except to the extent that the recovery was rightly set-aside.

On the same analogy, it is not prudent for us to express any views on the merits of the claim of the appellant or on objections thereto.

The appeal is accordingly allowed in part; the order of the learned Single Judge is modified to the extent that the appellant is granted liberty to submit a comprehensive representation to justify the fixation of pay under the 1st ACP and consequential grant of second ACP. Keeping in

view the status enjoyed upon by the appellant while in service, the Managing Director of the respondent-Corporation would afford him opportunity of personal hearing before deciding the controversy by way of a reasoned order, preferably within a period of two months from the date of receiving the representation. The order of learned Single Judge, so far as it set-aside the recovery, is kept intact. Similarly, the appellant would be at liberty to raise and the Managing Director of the Corporation is directed to decide the appellant's claim regarding interest on delayed payments of retiral benefits.

Ordered accordingly.

[SURYA KANT]
JUDGE

September 25, 2018
mohinder

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No

CM No.2604 of 2016 in
LPA No.1247 of 2016

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Chaman Lal Garcha versus Punjab State Industrial Development
Corporation Limited.

Present : Mr.Sanjay Kaushal, Senior Advocate with
Mr.Lalit Rishi, Advocate,
for the applicant-appellant.
Mr.V.M.Gupta, Advocate,
for the respondent.

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For the reasons mentioned in the application, the same is
allowed subject to all just exceptions and 16 days' delay in re-filing the
appeal is condoned.

CM stands disposed of.

(SURYA KANT)
JUDGE

September 25, 2018
mohinder

(SUDIP AHLUWALIA)
JUDGE