

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

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**RSA-3932-2015 (O&M)
Date of decision:20.03.2018**

Maldev Dutta

... Appellant

Versus

Panjab University and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Ms. Promila Nain Advocate for the appellant.

Mr. Arun K.Bakshi, Advocate for respondents No.1 and 2.

P.B. BAJANTHRI, J. (ORAL)

Short question for consideration in the instant appeal is whether appellant is entitled to monetary benefits attached to the post of Computer Operator during the intervening period from 01.08.1959 to 08.01.1969 or not?

2. One Sh.Sudama Ram Sharma was appointed as Work Inspector and subsequently he was appointed to the post of Computer Operator. He retired as a Computer Operator without there being any promotion. Consequently, he raised a dispute that he is entitled to higher pay on par with Clerk post. The post of Computer Operator as on 01.09.1959 carries pay scale on Rs.120-200/- whereas the Clerk post pay scale is Rs.120-300/-.

In this back ground Sh. Sudama Ram Sharma claim benefit on higher pay scale also sought for equivalence to that of Computer Operator to Clerk. Accordingly, his grievance was sorted out by means of a judicial pronouncement. The university-respondent while implementing the decision passed an order on 13.06.2008 which reads as under:-

“The Vice-Chancellor has ordered that any employee whose case is similar to the case of Sh.Sudama Ram's as decided by the Hon'ble Court and implemented by the University may apply for claim to the Vice-Chancellor for further necessary action as per rules.”

In view of the aforesaid decision of the University appellant proceeded to raise his grievance that he is also entitled to monetary benefits on par with Sh. Sudama Ram Sharma. Suit was decreed. Later on appeal filed by the university was allowed only on the ground of limitation and also that appellant services are not on par with Sh. Sudama Ram Sharma. Hence the present appeal.

3. Learned counsel for the appellant submitted that question for consideration in the present appeal is whether appellant is entitled to higher pay in the Computer Operator post also during the intervening period from 01.08.1959 to 08.01.1969 on par with Sh. Sudama Ram Sharma or not? Learned counsel for the appellant submitted that appellate court has erred in rejecting the claim of the appellant. Service particulars of appellant and Sh. Sudama Ram Sharma are entirely different for the reasons that appellant was promoted further from Clerk to next higher post. The said reasoning is not appropriate for the reasons that claim of the appellant is with reference

to Computer Operator post. On the issue of limitation is concerned it was submitted that cause of action accrued to the appellant as and when the respondent-university issued order on 13.06.2008. Therefore, appellate court has erred in allowing the respondent- University's appeal

4. Per contra, learned counsel for the respondents submitted that having regard to the service particulars of the appellant read with Sh. Sudama Ram's case is concerned it is entirely different. Appellant was promoted from Clerk to Senior Assistant and retired in the higher post. Therefore, it is un-comparable with Sh. Sudama Ram Sharma's service particulars. It was also contended that appellant had cause of action as and when Sh. Sudama Ram Sharma raised a dispute. Therefore, appellant has not made out a case.

5. Heard the learned counsel for the parties.

6. Crux of the matter in the present appeal is whether appellant and Sh. Sudama Ram Sharma were holding the post of Computer Operator or not? Undisputedly both the appellant and Sh. Sudama Ram Sharma were holding the post of Computer Operator. Appellant was holding the post of Computer Operator during the period from 01.08.1959 to 08.01.1969. From the judicial pronouncement and its implementation with reference to University's communication dated 13.06.2008 it is evident that appellant has cause of action on 13.06.2008. Question of considering service particulars with Sh. Sudama Ram Sharma and appellant may be distinguished. At the same time one has to take note of that both of them were holding the post of Computer Operator. Therefore, appellants claim is

only to the extent that post of Computer Operator held by him during the period from 01.08.1959 to 08.01.1969 is required to be taken into consideration for the purpose of pay Rs.120-300/- instead of Rs. 120-200/-. Thus, appellate court has erred on both issues viz., limitation as well as in comparing the service particulars. Cause of action accrued for the first time to the appellant on 13.06.2008. Therefore, suit filed by the appellant is within limitation. Insofar as merit is concerned appellant held the post of Computer Operator from 01.08.1959 to 08.01.1969. Therefore, he is entitled to whatever the monetary benefit extended to Sh. Sudama Ram Sharma and same shall be extended to the appellant. Accordingly, appeal stands allowed.

20.03.2018

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No