

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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RSA No.5307 of 2014 (O&M)

Date of decision: February 06, 2018

Maharishi Dayanand University thru its Registrar

.....Appellant

Versus

Ram Ajaur

.....Respondent

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

Present: Mr. B.L. Gupta, Advocate
for the appellant.

Mr. Sandeep Singal, Advocate
for the respondent.

P.B. BAJANTHRI, J (Oral)

In the instant appeal, appellants have questioned decree of the trial Court dated 13.06.2012 as well as appellate Court order dated 19.03.2014.

Grievance of the appellant is that the service of respondent-workman as a work charge employee during the period from 07.06.1977 to 26.07.1986 is not entitled to count the service rendered as a work charge employee towards additional increment and higher standard pay scale as and when he completed age/18 years/20 years of service.

Learned counsel for the appellant submitted that in the case of **State of Haryana and others vs. Sita Ram and others 2013(16) SCC 677** it is held that work charge employees are not entitled to any service benefits. Therefore both the trial and Appellate Courts have erred in extending the benefit of work charge employee towards grant of additional increment to the respondent. Thus appeal is to be allowed.

Per contra learned counsel for the respondent submitted that under official memorandum dated 15.03.2002, there is a provision for extending the benefit of additional increment while counting the service rendered as a work charge employee particularly in Para-7(ii). Therefore, decision cited by counsel for the appellant is not relevant for the purpose of the present case. Thus, there is no error committed by the trial as well as Appellate Court.

Heard learned counsel for the parties.

Issue in the present appeal is whether respondent is entitled to count work charge employee service for the purpose of granting additional increment or not. Official memorandum dated 15.03.2002 empowers the concerned official to extend the benefit of additional increment while taking into consideration the work charge employee service. Decision cited by learned counsel for the appellant could be distinguished for the reasons that Supreme Court in the case of **Nair Service Society vs T. Beermasthan** **2009 (2) SCC 545** in para 48 held as under:-

“48. Several decisions have been cited before us by the respondents, but it is well established that judgments in service jurisprudence should be understood with reference to the particular service rules in the State governing that field. Reservation provisions are enabling provisions, and different State Governments can have different methods of reservation. There is no challenge to the Rules, and what is challenged is in the matter of application alone. In our opinion the communal rotation has to be applied taking 20 vacancies as a block.”

In view of the Supreme Court decision that provisions are required to be taken into consideration. Thus, as long as official

memorandum dated 15.03.2002 is not withdrawn/modified/cancelled by the Competent Authority, respondent is entitled to benefit under Clause 7(ii) of memorandum dated 15.03.2002. Thus, appellants have not made out a case so as to interfere with the decree as well as Appellate Court order.

Accordingly, appeal stands dismissed.

(P.B. BAJANTHRI)
JUDGE

February 06, 2018
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Whether speaking/ reasoned: Yes
Whether Reportable: No