

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

RSA-3075-2018 (O&M)
Date of Decision:-15.5.2018

The State of Punjab through the Collector, Ferozepur and others
... Appellants

Versus

Karnail Singh ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Jasleen Kaur Sidhu, Assistant Advocate General, Punjab.

GURVINDER SINGH GILL, J.

The State of Punjab assails judgment dated 23.5.2017 passed by the Court of Additional District Judge, Ferozepur, wherein an appeal filed by the State against decretal of suit for declaration filed by the respondent Karnail Singh has been partly accepted.

The respondent-Karnail Singh had filed a suit seeking the following declarations:-

- “(i) Fixation of his basic salary as on 1.1.1986 as ₹ 1,350/-, thereafter on 2.1.1986 ₹ 1,380/- and further on 1.1.1987 as ₹ 1,410/- as per rule 7(ii) of the Punjab Civil Service (Revised Pay) Rules, 1988 of fixation of pay and further revise and refix his salary falling due w.e.f. 1.1.1996 as per the report of Pay Commission.
- (ii) Fixation of his salary on promotion as Sub Inspector on 30.11.2001 by granting one increment w.e.f. 30.11.2001 and further two increments w.e.f. 1.1.2002 along with all consequential benefits as per the instructions received in this regard pertaining to the period of 1990.

- (iii) Grant the benefit of *ad-hoc* promotion period of three years to the plaintiff for the grant of benefit under the Assured Career Progression Scheme (hereinafter referred to as ACP).
- (iv) Restore one increment already granted to the plaintiff which was withdrawn by the S.S.P. Ludhiana.
- (v) Further grant to the plaintiff all the consequential benefits with arrears at the rate of 24% per annum from the dates of accrual of the same till actual payment.”

The aforesaid suit was decreed by the learned Additional Civil Judge (Senior Division), Ferozepur and the following reliefs were granted:-

- “(i) Fixation of his basic salary as on 1.1.1986 as ₹ 1,350/-, thereafter on 2.1.1986 ₹ 1,380/- and further on 1.1.1987 as ₹ 1,410/- as per rule 7(ii) of the Punjab Civil Service (Revised Pay) Rules, 1988.
- (iii) Benefit of *ad-hoc* promotion period of three years to the plaintiff for the grant of benefit under the Assured Career Progression Scheme.
- (iv) Restoration of one increment already granted to the plaintiff which was withdrawn by the S.S.P. Ludhiana.
- (v) Arrears so accruing to him with interest on arrears at the rate of 12% per annum from the dates of accrual of the same till actual payment.

In other words the relief (ii) regarding refixation of salary after granting two additional increments on promotion was denied. Aggrieved with the aforesaid decretal of the suit of the respondent-Karnail Singh, the State preferred an appeal, which was partly accepted in the following terms:-

“In view of my findings under issues No.1 & 2, the impugned judgment and decree are modified in respect of relief (i) and (ii) as per the relief clause and the appellants are directed to reconsider the claim of the respondent for these two reliefs and pass the appropriate orders within four months from today.”

It may here be clarified that there is apparently a typographical error in aforesaid operative portion of impugned judgment, wherein relief in respect of counting of adhoc service towards ACP is mentioned as relief (ii) instead of relief (iii). Infact relief (ii) already stood declined by Lower Court.

As far as the relief pertaining to the withdrawal of increment by the State is concerned, I find that there is nothing on record to suggest that any notice, whatsoever, had been issued by the State to the respondent before withdrawing the aforesaid increment. In these circumstances, the concurrent findings of the Courts below to the effect that such an act on part of the State is illegal do not warrant any interference.

The learned lower Appellate Court has modified the judgment of learned Additional Civil Judge (Senior Division), Ferozepur as regards fixation of basic salary and as regards consideration of adhoc service towards grant of ACP by directing the appellants to reconsider the claim of the respondent and to pass appropriate order within a period of four months. The State can hardly be aggrieved by the same.

As such, I do not find any infirmity in the impugned judgment. I further find that there is a delay 255 days in filing of the present appeal, which does not stand sufficiently explained. The appeal, as such, is also barred by limitation. The miscellaneous application as well as the appeal are thus dismissed.

15.5.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No