

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

RSA 6482/2014

Date of decision:09.08.2018

Haryana State Agriculture Marketing Board,Panchkula and another

.....Appellant

v.

Kidar Singh

.....Respondent

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Vishal Garg,Advocate for the appellant.
Mr.Ankita Gupta,Advocate for the respondent.

Jaswant Singh,J,(Oral).

Defendant/appellant is in second appeal against concurrent findings returned by the Courts below whereby suit of the respondent/plaintiff for declaration and mandatory injunction was decreed by Addl.Civil Judge (Sr.Division)Kaithal, vide judgment and decree dated 28.2.2014 holding the plaintiff/respondent entitled to arrears of pay w.e.f. 14.12.1999 to 21.10.2006 with interest @ 6% per annum for the promoted post of Mandi Supervisor-cum-Fee Collector. The findings of the trial Court were upheld in appeal by the learned District Judge,Kaithal, vide judgment and decree dated 8.9.2014.

Briefly noticed the facts of the instant appeal are that plaintiff/respondent filed the suit with the averments that though he was promoted as Mandi Supervisor w.e.f. 14.12.1999 but arrears of pay were given to him only w.e.f. 21.10.2006 onwards and thus he was denied the arrears of pay for the promoted post from 14.12.1999 to 21.10.2006 vide

pay fixation order dated 2.7.2009. It was further alleged that persons junior to him who were also promoted to the post of Mandi Supervisor had already drawn the salary/arrears.

Upon notice, defendants contested the suit by filing written statement. The claim of the plaintiff/respondent was sought to be denied on the ground that in view of Government instructions dated 27.11.2006, in case of notional promotion allowed from the deemed date, concerned officials were not entitled for payment of arrears of salary as they had not worked during the period. It was pleaded that payment was to be made from the actual date of promotion i.e. 19.10.2006 and notional pay was to be fixed for the intervening period viz deemed date of promotion to actual date of promotion.

The trial court on the basis of evidence led by the parties held that initially plaintiff was promoted to the post of Auction Recorder vide order dated 26.4.1991 and it was only with the intervention of the Court that plaintiff was promoted to the post of Auction Recorder w.e.f. 2.9.1986. It was further found that initially plaintiff was promoted as Mandi Supervisor vide order dated 19.10.2006 however after dismissal of the appeal of the defendants in previous litigation by Hon'ble the Supreme Court vide order dated 9.4.2009 (Ex.P3), defendants issued another order dated 2.7.2009 (Ex.P1) vide which plaintiff was promoted to the post of Mandi Supervisor w.e.f. 14.12.1999 but his pay was fixed considering his promotion as Mandi Supervisor on 21.10.2006 even though juniors of the plaintiff were drawing more salary than him. It was further found that even in the previous civil suit plaintiff was held entitled to the post of Auction Recorder w.e.f. 2.9.1986 and thus held entitled to get all the consequential benefits with

retrospective effect i.e. 2.9.1986 alongwith fixation of his pay and arrears etc., and said judgment Ex.P8 was upheld upto Hon'ble Supreme Court. Plaintiff was also promoted to the post of Mandi Suprevisor with retrospective effect by taking consideration the fact that plaintiff was promoted to the post of Auction Recorder w.e.f. 2.9.1986 and therefore, he was also entitled for fixation of his pay and arrears with retrospective effect w.e.f. 14.12.1999.

In view of the above findings suit of the plaintiff was decreed by the trial court. The appeal of defendants was dismissed on delay and merits. Hence the present appeal.

At the time of hearing today,learned counsel for the appellants/defendants states at the Bar that the decree passed by the Courts below stand satisfied in execution proceedings vide order dated 24.8.2017 rendering the present appeal infructuous. The stand of the appellants is not denied by the counsel for the respondent/plaintiff.

In view of the above the instant appeal is dismissed as infructuous.

09.08.2018
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No